

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, January 13, 2016

SUBJECT	DESCRIPTION	PRESENTER
	Organizational Meeting	

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 13, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Jim Woodward, Self.

Chairman Wills called the meeting to order at 1:30 PM.

Chairman Wills welcomed the committee and those in attendance. He introduced the returning committee secretary, **Katie Butcher**, the House Page, **Chantel Wills**, a Rocky Mountain High School senior and **Dzenita Spiodic**, an intern from Boise State University.

Vice Chairman Dayley, in charge of the Rules Review, explained all of the rules would be heard before the full committee.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:46 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, January 19, 2016

SUBJECT	DESCRIPTION	PRESENTER
	Introduction to Judicial System	Senior Judge and Interim Deputy Admin. Director of the Courts Barry Wood
	Magistrate Judges Overview	Judge Michael Oths
	Child Protection	Judge Anna Eckhart
	Family Court Services	Judge Kent Merica
	Statewide Juvenile Justice Judge	Judge Mark Ingram
	Domestic Violence	Judge Rick Bollar
	Criminal Courts	Judge Jayme Sullivan
	Problem Solving Courts	Judge Ryan Boyer

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

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MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: Rick Bollar, Judiciary; Mike Oths, Magistrate Judges Association; Kent Merica, Magistrate Judges Association; Anna Eckhart, Magistrate Judges Association; Jayme Sullivan, Magistrate Judges Association; Barry Wood, Idaho Supreme Court.

Chairman Wills called the meeting to order at 1:31 PM.

Senior Judge and Interim Deputy Admin. Director of the Courts Barry Wood addressed the committee and summarized today's presentations and briefly explained the integrated judicial system.

Fourth District Judge Michael Oths, addressed the committee and provided an overview of Idaho's magistrate division, which he describes as the nexus for the public and the judicial system. In 2015 over 355,000 cases were filed in Idaho and ninety-six percent were filed in Magistrate Court. Magistrate Courts have a diverse case load, varying from initial felony proceedings to divorces. Idaho's Magistrate Court is unique because it oversees all of the following: initial proceedings for felony cases, misdemeanors from start to finish, child protection cases, juvenile cases, divorce cases, guardianship cases, conservatorships, probate cases, small claims cases, and civil cases. There are ninety-one Magistrate Judges in Idaho, with at least one Magistrate Judge per county. Each Magistrate Judge is appointed by the Magistrate Commission.

First District Judge Anna Eckhart, addressed the committee regarding Idaho's child welfare system and the Child Protective Act. In 2012, Idaho's child welfare system was ranked number one in the nation by the Foundation for Government Accountability. Each state and the District of Columbia was evaluated on how quickly they reacted to abuse allegations, whether they made sure abused children were put in safe, permanent homes quickly, whether foster care settings were supportive, safe, home-like and stable, and the work each state did to reduce abuse and neglect.

A child protection case begins with a law enforcement officer choosing to shelter a child from an unsafe situation. Once the case is filed the Magistrate Judge is required to hold a hearing within 48 hours to determine whether reasonable ground exists to support the allegations and whether the child should return home. The Magistrate Judge is then required to have a trial within 30 days, a Case Plan hearing 30 days following the initial trial and review hearings no less than every six months after that.

Federal funding depends on how well Idaho Judges comply with the requirements. Child protection files are audited and if a Judge makes an error, the children will lose their funding. The Guardian Ad Litem program exists in each district and in 2015 Guardian Ad Litem volunteers contributed 18,118 hours. Two thirds of the funding used for training these volunteers is determined by the legislature and the remaining third comes from community donors. The Department of Health and Welfare received over 22,000 referrals in fiscal year 2015 and 8,983 of those cases were investigated.

Second District Judge Kent Merica, addressed the committee regarding the role Magistrate Judges play in family law and domestic relations. Criminal work comprises approximately twenty-five percent of a magistrate's case load. With the assistance of the legislature the Judicial system has implemented in all seven judicial districts, two programs, the Family Court Services program and the Court Assistance program.

The Family Court Services program manager screens cases, identifies issues and assists Judges and families with a swift resolution while reducing conflict. The Court Assistance Office provides uniform pleadings to give to individuals who wish to represent themselves. This provides the framework for these individuals to properly present their case. Most recently, the Family Court Services program manager and the Court Assistance Office have been collaborating to help individuals prepare the correct forms and calculations so they are fully prepared when they appear in court.

Fifth District Judge Mark Ingram, addressed the committee regarding his role as a juvenile corrections judge in multiple counties and the role the magistrate judges have played in reducing the number of juvenile cases filed. Tremendous progress has been made in juvenile corrections since the 1995 passage of the Juvenile Corrections Act. Since 2011, the number of filings of juvenile cases and the number of children committed to the State's custody have declined. Presently, if a victim consents, facilitated conferences are happening between the victim and the offender. Frequently, these conferences result in the victim choosing to help the juvenile offender. The system is seeking to be more data driven, in order to look at individual programs and providers to measure the success they are having with the resources and responsibilities they have.

Fifth District Judge Rick Bollar, addressed the committee regarding domestic violence courts. Domestic violence courts were established in 2002. These courts seek to enhance victim safety, increase the level of offender accountability, provide effective case management by assignment of cases to a single judge and coordinate information for families with multiple cases in both the civil and criminal courts. Domestic violence courts process domestic violence cases; protection order cases; related divorce, custody, child support; as well as, family violence criminal misdemeanor cases.

The Domestic Violence Court's objective is to provide a safe environment for families at risk, to create coordinated responses to family issues, and to avoid separate judges providing different rulings and orders which can result in confusion and have negative consequences for the family. Currently there are six Statewide Domestic Violence Court Coordinators in the state. Offenders in Domestic Violence Court are held to a higher level of accountability because of the frequency of reviews, as well as the concentration and attention of a single judge who can monitor their compliance with court orders and oversee treatment programs. Domestic Violence courts allow victims to have a greater voice.

Third District Judge Jayme Sullivan, addressed the committee regarding criminal law cases in Magistrate Court. Criminal cases begin and often end in the magistrate division. Magistrate Judges are also charged with insuring the defendant understands the charges against them and their access to council. The Magistrate Judge will determine whether the defendant qualifies for a public defender and insures each defendant has meaningful language access to the courts. Magistrate Judges are the gate keepers of the District Courts, and they manage full misdemeanor dockets and jury trials. Magistrate judges are on call every day, all day, in order to be available to sign search warrants and conduct probable cause hearings on weekends.

Seventh District Judge Ryan Boyer, addressed the committee and gave a brief overview of Idaho's problem solving courts. Problem solving courts are probations for criminal defendants with intense involvement by a treatment team. The problem solving court and treatment team are under the direction of a judge who holds weekly status hearings to discuss the defendant's progress. Not every criminal defendant is entitled to be a participant in a problem solving court. Whether they should be a participant is decided based on the defendant's disposition and if they are amenable to treatment.

In response to questions from the committee, **Judge Eckart**, clarified the first goal in domestic violence cases where a child has been removed from the home, is to reunify the child and their parents. Reunification happens in the majority of cases heard. However, there are a small percentage of cases when reunification is not possible and the parental rights are terminated.

In response to questions from the committee, **Judge Ingram**, explained the decrease seen in juvenile filings was not based on Idaho's demographics. It is a decline in the number of kids committing delinquent acts, in Idaho and nationally. This is due, in part, to more effective out of court programs to assist with resolutions. Additionally, schools are re-evaluating disciplinary responses. It is estimated that 100% of girls who are in the state's custody have some history of sexual abuse. It is clear to the Magistrate Courts how cases often tie together. They have identified children in these circumstances who are identified as cross over kids. An example is a child who is currently in child protection and in the juvenile correction system. These cases are extremely difficult and terribly expensive because children who have a history of this kind of abuse are not amenable to treatment. Magistrate Judges are working to review files of children who are identified as cross over kids, in order to determine what can be done and when it needs to be done so that they can help facilitate the best outcome for the child. If the missed opportunity for better interventions can be identified, it may ameliorate further complications and the potential outcome is a far better outlook for these kids. It can be safely predicted, as early as the prenatal level, which parents would be able and best suited to nurture and care for their kids. On a global level, it is important to begin assisting the health care system identify the parents who are unable to provide care or are not well suited to nurture these kids and begin providing them with skill based training in order to provide the best possible outcome for these kids.

Chairman Wills requested that all members of the committee review the minutes.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:03 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, January 21, 2016

DOCKET NO.	DESCRIPTION	PRESENTER
<u>11-1003-1501</u>	Rules Governing the Sex Offender Registry	Dawn Peck, Idaho State Police
<u>11-1101-1501</u>	Rules of the Idaho Peace Officer Standards and Training Council	Victor McCraw, Idaho Peace Officer Standards and Training
<u>11-1104-1501</u>	Rules of the Idaho POST for Correction Officers and Adult Probation and Parole Officers	Victor McCraw, Idaho Peace Officer Standards and Training
<u>50-0101-1501</u>	Rules of the Commission of Pardons and Parole	Jack Carpenter, Idaho Commission of Pardons & Paroles
<u>06-0102-1502</u>	Rules of Correctional Industries	Andrea Sprengel, Idaho Correctional Industries
<u>11-0501-1401</u>	Rules Governing Alcohol Beverage Control	Capt. Russell Wheatley, Idaho State Police
<u>11-0501-1501</u>	Rules Governing Alcohol Beverage Control	Capt. Russell Wheatley, Idaho State Police

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, January 21, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Victor McCraw, Idaho POST; Russ Wheatley, ISP; Dawn Peck, ISP; Leila McNeill, ISP; Ross Gutterud, Idaho Licensed Beverage Association (ILBA); Susan Jenkins, ILBA; Andrea Sprengel, Correctional Industries; Karin Magnell, Correctional Industries; Alan Anderson, Correctional Industries; Carlie Foster, Lobby Idaho; Mary Schoeler, Parole Commission; Jack Carpenter, Parole Commission; Brad Hunt, OARC; Adam Jarvis, DFM.

Chairman Wills called the meeting to order at 1:30 PM.

Chairman Wills appointed **Reps. Scott and Wintrow** to proof read the minutes.

Chairman Wills turned the gavel over to **Vice Chairman Dayley**.

DOCKET NO. 11-1003-1501: **Dawn Peck**, presented **Docket No. 11-1003-1501**, Rules Governing the Sex Offender Registry. This rule is to determine if sex offenders need to register in Idaho. This rule change defines the process for those offenders looking to possibly work or live in Idaho to determine if they will need to register. The catalyst for this change was from an Idaho Supreme Court Ruling. The Supreme Court stated there is a mechanism in place for sex offenders who already reside, work or are students in Idaho. The Court noted there should be a process for those who had not yet moved to Idaho or began work in Idaho. This rule change is presented to provide the process for this to happen.

MOTION: **Rep. McCrostie** made a motion to approve **Docket No. 11-1003-1501**. **Motion carried by voice vote.**

DOCKET NO. 11-1101-1501: Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1101-1501**, Rules of the Idaho Peace Officer Standards and Training Council. The mission of POST is to develop skilled law enforcement professionals who are committed to serving and protecting the people of Idaho. This rule is intended to assist POST in accomplishing their mission by maintaining standards of competence and character for the men and women they certify to carry out their various public safety duties. Additionally, these rules clarify the required standards for maintaining certification, allowing POST to be certain they have the right people in these positions, while upholding public trust and law enforcement professions. Mr. McCraw reviewed the changes in the rule.

The changes do the following: brings POST into compliance with the FBI criminal fingerprint check restrictions; clarifies the certification qualifications regarding past misdemeanors and past decertifications in Idaho and other states; removes language prohibiting POST from considering misdemeanor convictions related to sex crimes, crimes against children and vulnerable adults; clarifies the certification requirements regarding past misdemeanor convictions within 10 years; eliminates the need for physical readiness or agility testing for certified individuals planning to return to the profession or seeking recertification; and eliminates the requirement for students to live on campus during their academy sessions. Additionally, there are substantial changes to a POST instructor's description of duties, certification process and record keeping requirements.

In response to a question from the committee, **Mr. McCraw** explained the FBI has ruled they will not recognize POST in their definition of a law enforcement agency for the administration of justice. Thus, the cost of background checks, previously administered at no cost to POST, has now become an expense for POST. Each agency already runs a background check on each participant. POST is not privy to the information gathered by the agency; however, the agency can verify to POST whether or not the individual is qualified by POST's standards. He said it was imperative to strike the section saying a misdemeanor conviction wouldn't be basis for rejection of an applicant because when it was added in 2014 it was overlooked that this section included crimes against children and vulnerable adults. By striking this section it will again allow POST to consider all violations when approving or denying a certification.

Mr. McCraw addressed the rule change removing the closed campus requirement. This allows POST and other agencies to expand their recruitment pool and accept applicants who are local, and/or single parents. Rural students will continue to have the option to stay on campus. Additionally, this will save POST funds.

In response to a question from the committee, **Mr. McCraw** confirmed, although attendance is not expressly spelled out in the rules, attendance is required by policy. Students commuting will not have a different attendance policy. Individuals returning for recertification do not go through basic training, thus they are not required to go through agility and physical readiness testing. This portion of the rule removes the requirement for them to go through agility and physical readiness testing, leaving it to the individual agencies to determine the individual's readiness. Individuals who have not been in the profession for 8 years or longer must go through basic training and agility and physical readiness testing again.

Mr. McCraw addressed the instructor certification changes. Presently POST processes close to 3,000 certifications every year. This takes countless hours for the instructor to fill out and submit requests for every topic they teach annually and for POST to process every request with little to no quality control due to the sheer volume. These rule changes accomplish the following: allows POST to issue training credit for only those courses taught by at least one certified or approved instructor unless otherwise designated in the rule; adds a provision for non-punitive suspension of an instructor's certification for significant or repeated deviation from POST training standards; eliminates exemptions for instructors; reduces the instructor application documentation requirements; eliminates the requirement for recertification as an instructor every year on every topic unless those topics are classified as high liability training which includes shooting, fighting or driving. The changes maintain and refine the current level of oversight, training and recertification requirements for any high liability instructors. Additionally, this rule establishes a 40 hour POST instructor development course to determine the instructor candidate's proficiency in the discipline, as well as, whether they are capable of teaching the discipline.

In response to a question from the committee, **Mr. McCraw** explained a conducted energy device instructor instructs in the use of a taser. Instructors are required to be in compliance with the rule and the device manufacturer's instruction requirements.

MOTION: **Rep. Nye** made a motion to approve **Docket No 11-1101-1501. Motion carried by voice vote.**

DOCKET NO. 11-1104-1501: Division Administrator **Victor McCraw**, Idaho Peace Officer Standards and Training Council (POST), presented **Docket No. 11-1104-1501**, Rules of the Idaho POST for Correction Officers and Adult Probation and Parole Officers. The changes in this rule address the FBI's challenge of POST's use of free background checks. This rule also addresses striking the physical fitness and agility recertification requirements for correctional officers who have left the position for a short lapse of time and are not required to go through basic training again. There is a specific change for correction officers and adult probation and parole officers who are recertifying and had originally certified at a time when fire arm handling was not part of their basic training. These officers will be required to go through basic certification to carry a firearm in order to recertify. Officers moving to Idaho are allowed to challenge the requirement to go through basic correction academy in order to work in the State of Idaho. This section has also had the agility portion stricken and the basic fire arms handling added to their requirements. This section requires applicants to disclose any decertifications.

MOTION: **Rep. Trujillo** made a motion to approve **Docket No. 11-1104-1501. Motion carried by voice vote.**

DOCKET NO. 50-0101-1501: Business Operations Manager, **Jack Carpenter**, Idaho Commission of Pardons & Paroles, presented **Docket No. 50-0101-1501**. He reviewed the changes, which include removing infractions from the definitions of non-technical and technical violation; providing Violation Hearing Officers the authority to impose sanctions for the purpose of matching language placed into statute during the previous session; implementing conditions and guidelines for a simpler and more transparent process when an individual seeks to have their firearms restored; adding provisions for confidential evaluations of substance abuse; clarifying the Executive Director's authority to recall a decision; and, providing an additional explanation of conditions of a parole contract including sanctions and rewards, all conditions must be in writing and signed by the parolee.

The changes also clarify what constitutes excessive alcohol use, the wording has been changed to mirror a standard condition of parole which states that no alcohol use is allowed. These changes authorize violation hearing officers to implement 90/180 day sanctions without appearing before the Commission; and remove the reference to institutional parole. The Commission requested the committee reject changes made to sub-section 05 because the Commission may need to use this section in regard to the 90/180 day sanctions for parole violators.

In response to a question from the committee, Executive Director, **Sandy Jones**, Idaho Commission of Pardons and Parole, defined Institutional Parole. Institutional Parole is a situation where a parolee is in custody on a different charge under a different jurisdiction or authority, and they are serving time while on parole for a separate charge. This requires the rules of parole to still apply to that person even though they are in custody on a separate charge.

Jack Carpenter, addressed the remaining changes which remove references to staff progress reports which were never adopted or utilized by the parole commission. Offenders have a self initiated progress report (SIPR) used to request a reconsideration of a commission decision. He also said in 2006 a memorandum of understanding was signed by the Governor, the Department of Correction and the Parole Commission granting the Parole Commission the authority to comply with the Foreign National Treaty. This process simply needed to be added to the IDAPA rules.

MOTION: **Rep. Wintrow** made a motion to approve **Docket No. 50-0101-1501 with the exception of Section 250 Subsection 05. Motion carried by voice vote.**

DOCKET NO. 06-0102-1502: Financial Manager, **Andrea Sprengel**, Idaho Correctional Industries, presented **Docket No. 06-0102-1502.** This rule clarifies the definition of a private agriculture employer. Per the request of the committee in 2015 this rule removes "shall" and replaces it with "will", "must" or "may".

MOTION: **Rep. Trujillo** made a motion to approve **Docket No. 06-0102-1502. Motion carried by voice vote.**

DOCKET NO. 11-0501-1401: **Capt. Russell Wheatley**, ISP, presented **Docket No. 11-0501-1401**, Rules Governing Alcohol Beverage Control. This proposed rule change is intended to define the actual use requirement for owning a Idaho Liquor License. Liquor licenses are in high demand and ISP has a priority waiting list, which contains at least one entity that has been on the waiting list since 1975. Idaho has adopted rules requiring liquor licenses be displayed prominently and be placed into, and remain, in actual use. The challenge for ABC is actual use is not defined anywhere in Idaho Code or rule. This change seeks to clearly define what actual use of a liquor license constitutes. From 2014-2015 ABC litigated 17 cases involving non-use of a liquor license. In one instance, ABC had evidence a licence had not been in use for an entire calendar year and the property was vacant and listed for sale. Opposing council stated their client had sold 5-10 drinks on one day in consecutive months and argued this met the actual use standard. ABC does not believe that is the intent of the actual use requirement. It is not ABC's intent to establish a standard that is burdensome to the industry. ABC is seeking a minimum requirement to keep liquor licenses in good standing. A clear actual use definition will keep ABC and licensees from having to litigate this issue on a regular basis.

In the summer of 2014 ABC and members of the industry began the rule making process and in October 2014 ABC published notice for negotiated rule making. Comments and feedback were requested and anticipated but were not received. In the spring of 2015, discussions with the industry continued and ABC tasked their detectives with conducting a survey of small quota system liquor licence holders in remote locations. These licence holders were asked how many days a week and how many hours a day they were open. They were also asked how many liquor drinks they sold per day, and if they experienced a busy and slow season, how many liquor-by-the-drink sales were affected on per day sales. 60 surveys were conducted and the results showed the fewest number of days open was four, the fewest number of hours open per day was five, the fewest number of hours open per week was twenty and the fewest number of liquor drinks sold per week was thirty. Using this information, ABC determined the minimum requirements for actual use should require the licence holder to be open twenty hours per week and have twenty liquor-by-the-drink sales per week. Statute already requires newly issued liquor licenses be used six days a week and eight hours a day.

With this rule ABC is not dictating which days of the week a business must be open, only that they have to be open for legitimate sales of liquor 20 hours per week. It is up to each licensee to decide which hours they will be open to meet the minimum 20 hour requirement. ABC is attempting to adopt a standard that allows remote businesses to operate within the confines of the rules, but also provides the agency with an enforceable standard when liquor licenses are not in actual use. When liquor licenses are being used properly the State of Idaho benefits from revenue from the purchase of liquor from the Idaho State Liquor Division (ISLD), the creation of jobs, and tax revenue. Dormant liquor licenses provide none of these and cause frustration for those on the priority waiting list.

ABC constantly receives complaints pertaining to quota system licenses not being in actual use. When ABC becomes aware of a liquor license not in actual use, a letter is sent to the licensee reminding them there is a requirement for actual use of the license. If the licensee's closure is due to a loss or move of the physical licensed premises the rule allows for 90 days to find suitable premises to prominently display their liquor license. The letter will contain a date by which they must be operational and have legitimate sales. The Director has the authority to grant a 60 day extension if requested. Based on this, 90 days is the shortest period of time ABC would use to calculate the sales per week under this actual use rule. This rule does not affect specialty liquor licenses. The Idaho Licensed Beverage Association (ILBA) is supportive of this rule. If this rule is adopted it will provide a much needed clarification on what actual use of a liquor license constitutes for both regulators and quota system liquor license holders.

In response to questions from the committee, **Capt. Wheatley** explained out of the surveys conducted, no one is in jeopardy of losing their license if the proposed rule were adopted. Audits using their liquor sales records are used to determine if the actual use requirements are being met. The courts have held a liquor license is not defined as property in Idaho because it is a license to do something that is otherwise illegal without the license. The law limiting the number of licenses for sale was adopted by the legislature and has been in Idaho Code for many years. When a license is successfully revoked, it would go back into the quota pool and is offered to the next person in line on the priority waiting list. Because a lapse is a violation of their license, the license holder would not receive any compensation.

MOTION:

Rep. Wintrow made a motion to approve **Docket No. 11-0501-1401**.

**SUBSTITUTE
MOTION:**

Rep. Trujillo made a substitute motion to reject **Docket No. 11-0501-1401**.

In response to questions from the committee, **Capt. Wheatley** clarified no operational business currently using their license would lose their license if this rule was approved. Any licensee not using their license, would likely lose their license. There are individuals being pursued for non-use of their liquor licenses but without a clear definition of actual use, it has been impossible to revoke their license. Without adopting the proposed rule, ABC has no standard to use when responding to a challenge. A license holder who has received a notification has 90 days to become compliant and has the option to sell during those 90 days. Should a license be revoked and go back into the pool, the state sells the liquor license for \$800, not for the current market value. A newly issued license has to remain in use six days a week, eight hours a day, for six months and cannot be sold or transferred for two years. The proposed rule is seeking to define actual use for licenses outside of the initial six month period.

Ross Gutterud, owner of First National Bar and Regional Representative for ILBA, expressed his support for the rule, as well as the support of the members of ILBA.

**VOTE ON
SUBSTITUTE
MOTION:**

Roll call vote was requested on the substitute motion to reject **Docket No. 11-0501-1401. Substitute motion carried by a vote of, 10 AYE, 7 NAY. Voting in favor** of the substitute motion: **Reps. Luker, McMillan, Perry, Sims, Trujillo, Cheatham, Kerby, Nate, Scott and Gannon. Voting in opposition** of the substitute motion: **Reps. Malek, McDonald, McCrostie, Nye, Wintrow, Chairman Wills and Vice Chairman Dayley.**

**DOCKET NO.
11-0501-1501:**

Capt. Russell Wheatley, ISP, presented **Docket No. 11-0501-1501**, Rules Governing Alcohol Beverage Control (ABC). This rule is a proposed change pertaining to growlers. Requirements for sale and transportation of growlers vary from state to state. In Idaho, growlers are recognized as an open container because they do not have a factory seal, unlike wine or beer bottles. Finding a way to seal growlers is extremely important in order to protect consumers. Presently, a consumer will have their growler filled and place the container in the passenger seat or passenger floorboard, this immediately places them in violation of Idaho's open container law. It was also important ABC defined a growler's size and type. This rule would define the minimum size of a growler as a 750 ml bottle and the maximum size as a gallon bottle. Although most growlers are made of glass or aluminum, a specific material was not designated in the rule because a growler made with different materials may be developed in the future.

The industry requested ABC procure, sell and distribute a tamper proof tape to seal the growler. ABC's oversight would provide consistency for all distributors. The tape chosen meets the necessary tamper proof requirement so the tape could not be simply peeled away and put back into place. However, when the lid is turned the tape will break, showing the bottle has been opened. This rule will provide clarity for anyone who chooses to engage in the sale and use of growlers. This rule clarifies employees, who are the proper age, and working for licensed retailers, breweries, or wineries are the only individuals authorized to fill a growler. This rule establishes growlers are for off-premise consumption only. A fee has been designated to be collected by ABC a division of ISP. This fee would provide for a box of the designated and approved tape, and the cost to mail it to the licensee. This is being sold at cost, ABC is not making a profit off of the tape. This has already been adopted as a temporary rule. Once the rule is adopted, education and distribution of the tape will begin for the licensees. As of six months ago there were 163 licensees who had indicated an interest in selling growlers, today there are 354 interested licensees.

MOTION:

Rep. Kerby made a motion to approve **Docket No. 11-0501-1501.**

Rep. Sims invoked Rule 38 stating a possible conflict of interest but that she would be voting on the rule.

In response to questions from the committee, **Capt. Wheatley** confirmed there have not been any instances where an officer has found an open growler in a vehicle. A location not in possession of an on-site consumption license is not required to post that they cannot allow on-site consumption.

**SUBSTITUTE
MOTION:**

Rep. Perry made a substitute motion to reject **Docket No. 11-0501-1501.** Roll call vote was requested. **Substitute motion failed by a vote of, 5 AYE, 12 NAY. Voting in favor** of the substitute motion: **Reps. McMillan, Perry, Sims, Nate and Scott. Voting in opposition** to the substitute motion: **Reps. Luker, Malek, Trujillo, McDonald, Cheatham, Kerby, Gannon, McCrostie, Nye, Wintrow, Chairman Wills and Vice Chairman Dayley.**

**VOTE ON
ORIGINAL
MOTION:**

Roll call vote was requested on the original motion to approve **Docket No. 11-0501-1501. Original motion carried by a vote of, 12 AYE, 5 NAY. Voting in favor of the original motion: Reps. Luker, Malek, Trujillo, McDonald, Cheatham, Kerby, Gannon, McCrostie, Nye, Wintrow, Chairman Wills and Vice Chairman Dayley. Voting in opposition to the original motion: Reps. McMillan, Perry, Sims, Nate and Scott.**

Vice Chairman Dayley turned the gavel over to **Chairman Wills**.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 4:12 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, January 25, 2016

SUBJECT	DESCRIPTION	PRESENTER
	Introduction to Judicial System	Senior District Judge and Interim Deputy Administrative Director of the Courts Barry Wood
	Felony Sentencing Committee and Justice Reinvestment Initiative Update	Administrative District Judge Lansing Haynes
	Judicial Excellence and Education Program	District Judge Jeff Brudie
	Statewide Drug Court & Mental Health Court Update	District Judge Bradly Ford
	Statewide Veterans Court Update	Administrative District Judge Timothy Hansen
	Twin Falls County Odyssey and E-filing Pilot Project Update	Administrative District Judge Richard Bevan
	Statewide and District Case Flow Management Plans	Administrative District Judge Stephen Dunn
	Update on 6th and 7th Judicial Districts Joanne Wood Court Project and Idaho Falls Crisis Center	Administrative District Judge Darren Simpson

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
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COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, January 25, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: The sign in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign in sheet will be filed with the minutes in the Legislative Library.

Chairman Wills called the meeting to order at 1:30 PM.

Judge Barry Wood provided an overview of the day's presentation. Idaho's judicial system contains the appellate and trial courts. The appellate courts are comprised of the supreme court justices and the court of appeals chief judges. The trial courts are comprised of the district courts comprised of 45 judges, many of whom attended this meeting, and 91 magistrate judges.

Administrative District Judge Lansing Haynes presented an update on the Justice Reinvestment Initiative (JRI) and the felony sentencing committee. JRI is in the implementation stage and has had the Matrix in place for 6 months, it is working well. The Matrix is responses for probation violations and governs both rewards and sanctions for those persons who are on probation. Matrix responses are set based on the severity of the sentence, the LSRI score, the level of services inventoried, the type of interventions needed, and the severity of the sanction. The Matrix is vital to a streamlined process of sentencing and sanctions across the state. A goal of JRI is to lower the case load of Idaho's probation officers because the fewer cases they have to supervise, the more intensive their supervision can be. Across the state, the case load for each officer is nearing 70 cases, which is the targeted case load. The Felony Sentencing Committee has been reworking the Retain Jurisdiction Program (RIDER). Department of Corrections (DOC) performed a self analysis of the RIDER program and has chosen to adopt new programing for substance abuse treatment, sex offender treatment, and anger management treatment. A second DOC undertaking is also providing the judicial branch with needed tools for offenders. The program, once completed, will establish residential treatment facilities in the local communities.

Administrative District Judge Jeff Brudie updated the committee on the judicial excellence and education program. New judges will go through a program including a multi day training program in state, a two week general jurisdiction training at the University of Nevada and mentor judge is made available who will mentor the new judge on an individual level. Once their training is complete, there is very little feedback provided to these judges. In 2000, the Idaho Judicial Council established a voluntary program to provide the needed feedback. However, due to lack of participation the Idaho Supreme Court established a committee in 2013 who reviewed the evaluation process. Their recommendation is to establish a mandatory program, requiring full participation, and operated by the Administrative Office of the Courts.

Administrative District Judge Bradley Ford updated the committee regarding Idaho's drug courts and mental health courts. In 2015, Idaho problem solving courts served 2,590 participants, which represents a 14% growth of participation in problem solving courts since 2012. Idaho adult felony court participants have a combined recidivism and program failure rate 12% lower than felony offenders who participated in the retained jurisdiction program, and 15% lower than participants who were on traditional probation. Addressing crime with problem solving courts saves tax payer money and provides an effective community based sentencing alternative. The program results in additional cost savings because graduates reintegrate into their communities, become responsible citizens, work and contribute to the tax base, and take care of their children and their families. Idaho's problem solving courts continue to evolve to better serve the needs of their participants. The statewide Drug Court Coordinating Committee established a peer review process of each court and provides feedback on compliance and what can be done to improve their provision of services. The problem solving courts are successful because they single out higher risk and higher need participants who need individualized treatment and intense supervision. The courts have improved their assessment and screening process to include participants affected by trauma, PTSD, and mental health.

In response to a question from the committee, **Judge Ford** explained magistrate judges are appointed pro tem to preside over felony and misdemeanor problem solving courts. A judge who works in a problem solving court is doing so on a volunteer basis and magistrate judges who do so, provide a brief reprieve for another judge. Rotating judges has been very effective.

Administrative District Judge Timothy Hansen presented an update on the Statewide Veterans Treatment Court. Veterans Treatment Court is not intended for offenders with low criminogenic risk of recidivism. Veterans Treatment Court is intended for offenders with a moderate-high to high risk of recidivism and high level of criminogenic needs. Offenders with a felony offense who are at risk of incarceration are given priority for admission. Treatment includes four progressive phases. Phase 1 focuses on orientation, stabilization and initial engagement. Phase 2 focuses on the provision of treatment. Phase three focuses on transition to engaging the community and phase four focuses on maintenance of recovery and coping skills. Phases one through three require a minimum of nine months and the minimum for phase four is three months. Participants in phases one and two must regularly appear before the judge in court at least twice a month or more frequently if the participant is not in compliance with the requirements. The Veterans Treatment Court team includes the participation of the judge, prosecutor, defense counsel, probation/community supervision officer, treatment provider, law enforcement representative, mentor coordinator, and Veteran Justice Outreach Specialist/Coordinator. Graduation criteria includes successful completion of all recommended treatment, completion of the chosen cognitive restructuring program, six months of continuous abstinence from alcohol or other drugs immediately preceding graduation, maintenance of responsible vocational, educational, housing and financial status for a reasonable period of time, demonstrated effective use of a community-based recovery support system and an acceptable long term recovery plan. The average years of alcohol or substance abuse before joining the program is 26.96 years. (see attachment 1 and 2).

Administrative District Judge Richard Bevan presented an update on the Twin Falls County Odyssey and E-filing pilot project. iCourt is a comprehensive, unified solution to case management, supervision, judicial workbench, financial management, public portal access, electronic payments, electronic filing and service, electronic document management and user-friendly reporting. The pilot project went live in Twin Falls County in June 2015. Twin Falls County was proud to have served as the pilot court for adoption of the Odyssey system, including the recent addition of e-filing. This project is a solution that provides the courts, attorneys, and the public with better access and a streamlined approach to the court system from virtually anywhere. Odyssey is an excellent program, designed with today's electronic world in mind. Within the first three days of Odyssey going live in January 2016 there were 2,560 filings submitted and 55 firms registered.

Administrative District Judge Stephen Dunn updated the committee regarding progress made on statewide and district case flow management plans. Idaho Judiciary has, since 2011, diligently implemented time standards, case flow management plans and rule changes which will secure the just, speedy and inexpensive determination of every action and proceeding. Substantial progress continues to be made in drafting and implementing case management plans which will bring more uniformity, consistency, and efficiency when processing cases in Idaho. Case flow management plans are a series of ideas and best practices that judges and attorneys can follow on a consistent basis to process the case. Felony case management plans in all districts have either been approved by the Idaho Supreme Court or are in the final stages of approval. Substantial work will be completed this year on case management plans in misdemeanor, family and child protection cases. The work on case management plans for civil cases will begin within the first part of this year and it is the intent to have them finished this year as well. Rule changes which enhance the process of effective case management have either been implemented, or are being considered for implementation. Efforts have included the input of all partners in the judicial system, including judges, attorneys, law enforcement, clerks and court administrators. Idaho has had requests from other states seeking to implement the same processes into their states.

Administrative District Judge Darren Simpson updated the committee on the Wood Court pilot projects and the North Idaho and East Idaho crisis centers. Wood Court is another type of phase based, problem solving court, named after former representative, **JoAn Wood**. Wood Court is unique because unlike other drug courts, Wood Court deals with dual diagnoses offenders who have been diagnosed with substance abuse and mental health issues. Wood Court treatment begins in custody and participants are gradually phased out and into the community. **Judge Dunn** presides over the newest Wood Court in Bannock County, which began in January of 2015 and has 42 participants. **Judge Watkins** presides over the second of the two Wood Courts in Bonneville County which has been in operation for eight years and has 62 participants. The Wood Court program is an eighteen month term and to-date the Wood Court has had 523 participants. There are two crisis centers operating in Idaho, the Northern Idaho Crisis Center in Kootenai County and the Eastern Idaho Crisis Center in Idaho Falls. The Northern Idaho Crisis Center opened in December 2015 and has 137 clients, 101 of whom are self referrals. The Eastern Idaho Crisis Center opened in December 2014 and approximately half of their clients are homeless. (See attachment 3).

In response to a question from the committee, **Judge Simpson** clarified the Crisis Center budget is \$1.5 million for each center for a two year period.

In response to a question from the committee, **Judge Bevan** explained pro se individuals may use kiosks or work with the clerks to file their papers. The clerks will assist them and scan the documents into the system for them.

In response to a question from the committee, **Judge Wood**, stated the concern from members of the bar regarding third party end user agreements when signing electronically in the e-filing process, are being resolved. The e-filing rule is being reviewed in response to handling damages and how any future glitches will be handled.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:48 PM.

Representative Wills
Chair

Katie Butcher
Secretary

**IDAHO ADULT VETERANS TREATMENT COURT
STANDARDS & GUIDELINES FOR
EFFECTIVENESS AND EVALUATION**

Idaho recognizes that veteran treatment courts promote public safety and reduce criminal activity associated with justice involved offenders with substance abuse and mental health disorders and enable them to restore honor, health and to live a productive and law-abiding lifestyle in our community. Nationally, veteran treatment courts utilize a variety of evidence-based practices such as random and frequent drug testing, incentives and sanctions to shape behavior, close and coordinated supervision of offenders, specific substance abuse treatment, mental health and cognitive behavioral treatment and ongoing judicial monitoring. While the major objective of the veteran treatment courts is effective community management and long-term rehabilitation of eligible offenders, community safety is the overarching goal.

Statement of Policy - The Goals of Drug and Veteran Treatment Courts

The Idaho Legislature established the following goals for problem solving courts:

- To reduce the overcrowding of jails and prisons
- To reduce alcohol and drug abuse and dependency among criminal and juvenile offenders
- To hold offenders accountable
- To reduce recidivism, and
- To promote effective interaction and use of resources among the courts, justice system personnel and community agencies.

The Drug Court and Mental Health Court Act requires the Idaho Supreme Court to establish a Drug Court and Mental Health Court Coordinating Committee to develop guidelines addressing eligibility, identification and screening, assessment, treatment and treatment providers, case management and supervision and evaluation. It is the intention of the Idaho Supreme Court Drug Court and Mental Health Court Coordinating Committee that Veteran Treatment Court Standards and Guidelines will be useful in:

- assisting Idaho courts in establishing veterans treatment courts that are based on available research-based or widely-accepted best practices
- maintaining consistency of key veteran treatment court operations across the state, and establishing a foundation for valid evaluation of the results and outcomes achieved by Idaho's veteran treatment courts

It is the intention of the Idaho Supreme Court Drug Court and Mental Health Coordinating Committee that treatment standards assure:

- consistent, cost-effective operation
- adherence to legal and evidence-based practices
- effective use of limited public resources, including the human resources of collaborating agencies

Standards / Guidelines Description

The purpose of this document is to set forth both required standards and recommended guidelines to provide a sound and consistent foundation for the operation and the evaluation of Idaho's veteran treatment courts.

These standards and guidelines are not rules of procedure and have no effect of law. They are not the basis of appeal by any veterans treatment court participant and lack of adherence to any standard or guideline is not the basis for withholding any sanction or readmitting a participant who is terminated for any cause.

The standards and guidelines provide a basis for each veterans treatment court to establish written policies and procedures that reflect the standards and guidelines, the needs of participants, and the resources available in the community. The standards and guidelines were developed and refined through input from Idaho veteran treatment court professionals and stakeholders and represent a consensus about appropriate practice guidance.

The *Idaho Drug Court and Mental Health Court Act* states "The district court in each county may establish a drug court which shall include a regimen of graduated sanctions and rewards, substance abuse treatment, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as may be established by the district court, **in accordance with standards developed by the Idaho Supreme Court Drug Court and Mental Health Court Coordinating Committee**".

In addition, the Idaho Drug Court and Mental Health Court Act states: "The Drug Court and Mental Health Court Coordinating committee shall also develop **guidelines for drug courts addressing eligibility, identification and screening, assessment, treatment and treatment providers, case management and supervision, and evaluation**".

These standards and guidelines are organized under these statutory headings. In addition, **Coordination of Services** has been added to encompass guidelines related to the establishment and maintenance of the partnerships, also envisioned in the statute, that are so vital to effective and sustainable mental health courts.

Standards of effectiveness and evaluation will be designated by showing them in **bold font**. Veteran Treatment Courts will be accountable to the Drug Court and Mental Health Court Coordinating Committee and to the Idaho Supreme Court for operating in compliance with the standards.

Guidelines are shown in normal font and are guidance for operations in ways that are consistent with sound practice but for which local courts will have greater latitude in operation to meet local circumstances.

Compliance Policies

The intent of Statewide Guidelines and Standards is to assure that scarce public resources are used in ways that assure the greatest positive return on the investment. Research has now clearly shown that certain operational practices are essential to achieve cost-beneficial outcomes and the

Drug Court and Mental Health Court Coordinating Committee has identified such practices as **Standards of Operation**. Because of the variations in communities and their available resources, it is recognized that achieving total compliance with the Standards must be an ongoing process over a reasonable period of time. However, how a court “measures up” to these practices and makes a good faith effort to achieve full compliance will become the foundation for receiving ongoing state funding.

As always, the Supreme Court is committed to providing the guidance and support to enable all veteran treatment courts to become and remain fully compliant with approved Standards.

Courts that are out of compliance with any approved standard must submit a **plan of improvement** that describes:

- What corrective actions will be taken
- What time line is required to implement the planned actions
- How the court will maintain the improvement and resulting compliance
- Any barriers or resource needs the court must address to implement and maintain compliance

The plan of improvement will be reviewed by the Statewide Coordinator and approved by the Statewide Drug Court and Mental Health Court Coordinating Committee and / or its Executive Committee.

Courts would be granted up to one year to fully implement the plan of improvement and to receive a reassessment. Based on demonstrated efforts, an additional six months could be granted to complete the plan of improvement. In addition, in unusual cases, a court could request a time-limited waiver of a standard for good cause, if it can be shown that a proposed alternative practice is likely to achieve similar positive outcomes.

Remedies for Non-compliance

Courts unable or unwilling to substantially comply with the standards after this period would be subject to a Provisional Termination Notice. Such a notice would require that no new admissions be accepted into the court and that a plan for completion of existing participants be submitted to the Statewide Coordinator.

A Court receiving a Provisional Termination Notice would be allowed an opportunity to present a request for continuance of operations to the Executive Committee of the Statewide Drug Court and Mental Health Court Coordinating Committee and this request could include a new plan of improvement or other proposals that would allow continued operation for a specified period of time.

**ADULT VETERANS TREATMENT COURT
STANDARDS & GUIDELINES
FOR EFFECTIVENESS AND EVALUATION**

Each district court shall establish written policies and procedures that describe how the veterans treatment court(s) will implement these statewide guidelines as well as any additional guidelines, policies, and procedures necessary to govern its operations. Due to the absence of applicable research, each court shall evaluate veterans treatment court applicants for eligibility based upon the totality of their circumstances and with consideration for the benefits of participation to the veteran, the court, and the community. We acknowledge that as more research information becomes available, eligibility criteria may become more stringent and better defined.

Bold = Standards

1.0 ELIGIBILITY

1.1 No person has a right to be admitted into veterans treatment court. [IC 19-5604]

1.2 No person shall be eligible to participate in veterans treatment court if:

The person is currently charged with, or has pled or been found guilty of, a felony in which the person committed or attempted to commit, conspired to commit, or intended to commit a sex offense. [IC 19-5604.b.2]

1.3 Each veterans treatment court shall establish written criteria defining its target population addressing the following considerations:

- A. Veterans Treatment Court is not intended for offenders with low criminogenic risk of recidivism. Veterans Treatment Court is intended for offenders with a moderate-high to high risk of recidivism and high level of criminogenic needs in addition to establishing criteria with assessment tools that address the following: has previously not successfully completed probation, or presents with a documented service related trauma, trauma history, traumatic brain injury, or post-traumatic stress disorder, substance use or mental health disorder.**
- B. Offenders with a felony offense who are at risk of incarceration should be given priority for admission.**
- C. Individuals who are failing to comply with conditions of probation because of substance dependence or addiction and who are being or may be charged with a probation violation, with potential incarceration, should be screened and considered for possible veteran treatment court participation.**
- D. Veterans Treatment Courts may consider persons currently charged with, who have pled or have been adjudicated or found guilty of, a felony crime of violence or a felony crime in which the person used either a firearm or a deadly weapon or**

instrument may be admitted at the discretion of the veterans treatment court team and with the approval of the prosecuting attorney as specified in IC 19-5604, as amended 2011.

- 1.4 Each veterans treatment court shall establish a written procedure for deciding how individuals will be considered for acceptance into veterans treatment court, the criteria for inclusion and exclusion (established in Guideline 1.3), and the establishment of final control for admittance by the presiding veterans treatment court judge.
- 1.5 Each veterans treatment court shall identify eligible individuals quickly, screen them as soon as possible, educate them about the program and the merits of participating, and place them promptly in the veterans treatment court in order to capitalize on a triggering event, such as an arrest or probation violation, which can persuade or compel participants to enter and remain in treatment.

Comment: Research suggests that admitting participants within 50 days of arrest shows improved outcomes and reduced costs.

- 1.6 Coerced treatment is as effective or more effective than voluntary treatment. Participants should not be excluded from admission solely because of prior treatment failures or a current lack of demonstrated motivation for treatment. Veterans Treatment Court should implement motivational enhancement strategies to engage participants and keep them in treatment.
- 1.7 **Payment of fees, fines, and/or restitution is an important part of a participant's treatment, but no one, who is otherwise eligible, should be denied participation solely because of inability to pay.**

Courts must establish a clear, regular payment plan with offenders at intake and work closely with offenders throughout veterans treatment court participation to keep fee payments current as well as to address payment of other court related costs including restitution. Agreed upon payments must be closely monitored throughout all phases of veterans treatment court and collection or necessary fee adjustment must be managed on an ongoing basis.

The practice of allowing large veterans treatment court fee balances to accrue and then deferring graduation until these balances are paid is discouraged because of its impact on veterans treatment court operational costs and the court's ability to admit new participants. Courts should develop procedures for post-graduation collection of unavoidable fee balances, for example filing a civil judgment or other post-graduation collection procedures.

- 1.8 **Veterans treatment court participants shall be responsible for payment of the cost of treatment, based on assessed ability to pay and available resources.**

- 1.9 Cooperation among veterans treatment court is encouraged, within the constraints of available resources, to facilitate transfer of eligible applicants or current participants to the most appropriate problem-solving court approved by the Drug Court and Mental Health Court Coordinating Committee. Such transfers are contingent on meeting the receiving courts' written target population criteria. The receiving court may be transferred jurisdiction in accordance with Idaho Criminal Rule 20.

2.0 IDENTIFICATION AND ASSESSMENT

- 2.1 Prospective veterans treatment court participants shall be identified through a structured screening process designed to determine if they meet the veterans treatment court target population eligibility criteria.
- 2.2 Each veterans treatment court candidate shall undergo a substance abuse assessment [IC 19-5604] prior to acceptance into veterans treatment court. Initial assessment procedures shall include, at a minimum, the Global Appraisal of Individual Needs-Short Screener (GAIN-SS). If it can be obtained on a timely basis, and the candidate meets other eligibility criteria, the full GAIN-Initial (GAIN-I) is preferable.
- 2.3 Each veterans treatment court candidate shall undergo a criminogenic risk assessment. [IC 19-5604] prior to acceptance into veterans treatment court. Such assessment procedure shall include, at a minimum the Level of Services Inventory – Revised (LSI-R) prior to acceptance into veterans treatment court. [IC 19-5604]
- 2.4 Veterans treatment court shall develop procedures to identify participants with varied treatment needs, to refer them to an available treatment provider for evaluation and treatment, and to seek regular input from that provider regarding these participants.
- 2.5 The treatment plan for substance abuse or dependence shall be based on a clinical assessment, performed by a qualified professional, including a GAIN-Interview (GAIN-I) for state funded substance abuse treatment.
- 2.6 Court and treatment personnel will ensure that individuals are suitably matched to appropriate treatment and interventions designed to address their identified criminogenic needs.

3.0 TREATMENT AND TREATMENT PROVIDERS

- 3.1 Treatment paid for by state funds shall be provided in facilities approved by the Idaho Department of Health and Welfare.
- 3.2 Each veterans treatment court shall implement procedures to assure that treatment services are delivered within available financial resources.
- 3.3 Information regarding the specific treatment services delivered is essential for veterans treatment court to effectively manage participation in veterans treatment court.

Communication between treatment providers and veterans treatment court team shall take place on a frequent and regular basis.

- 3.4 Treatment shall address identified, individualized criminogenic needs with the expectation that the treatment program will incorporate, to the extent possible, evidence based practices, delivered with fidelity.
- 3.5 **Group size for group treatment interventions shall not regularly exceed twelve members unless the fidelity of the specific intervention is based on a different number.**
- 3.6 **Treatment shall include the following: A cognitive behavioral model, including interventions designed to address criminal thinking patterns.**
 - A. Techniques to accommodate and address participant stages of change. Members of the veterans treatment court team should work together to engage participants and motivate participation. The consistent use of techniques such as motivational interviewing and motivational enhancement therapy have been found, to reduce client defensiveness, foster engagement, and improve retention.
 - B. **Family education and / or treatment to address patterns of family interaction that increase the risk of re-offending, to develop family understanding of treatment and recovery, in order to foster family participation and create an improved family support system.**
 - C. Referral of family members to appropriate community resources to address other identified service needs.
 - D. **Incorporation of parenting, child support, custody issues, with an emphasis on the needs of children in the participant's family into treatment while addressing these needs through the effective use of community resources.**
 - E. **Frequent, regular clinical/treatment staffings to review treatment goals, progress, and other clinical issues for each participant.**
 - F. **The prompt and systematic reporting to the veterans treatment court team of the participant's behavior, participation and progress in treatment; the participant's achievements; the participant's compliance with the veterans treatment court requirements; and any of the participant's behavior that does not reflect a pro-social lifestyle.**
 - G. **Progressive phases that include the focus and goals described below:**
 - (1) **The focus of Phase 1 is Orientation, Stabilization and Initial Engagement. During this phase participants are expected to demonstrate initial willingness to participate in treatment activities; become compliant with the conditions of**

participation in veterans treatment court; establish an initial therapeutic relationship; and commit to a plan for active treatment.

- (2) The focus of Phase 2 is the provision of Treatment. During this phase participants are expected to demonstrate continued efforts at achieving treatment goals; offender recovery and coping skills, including, relapse prevention; develop an understanding and ability to employ the tools of cognitive restructuring of criminal/risk thinking; develop the use of a recovery support system; and assume or resume socially accepted life roles and behaviors, including education or work and responsible family relations.
- (3) The focus of Phase 3 is Transition to Community Engagement. During this phase participants are expected to demonstrate competence in using relapse prevention, recovery, and cognitive restructuring skills, in progressively more challenging situations; develop further cognitive skills such as anger management, negotiation, problem- solving and decision making, and financial and time management; connect with other community treatment or rehabilitative services matched to identified criminogenic needs; demonstrate continued use of a community-based support systems; and demonstrate continued effective performance of socially-accepted life roles and behaviors.
- (4) The focus of Phase 4 is Maintenance of recovery and coping skills. During this phase participants are expected to demonstrate internalized recovery and coping skills with minimal program support; effectively manage medical, psychiatric, and substance use disorder issues, demonstrate ability to identify relapse issues and intervene; contribute to and support the development of others in earlier phases of the veterans treatment court program. Participants are expected to demonstrate and maintain a community support system.

- 3.7 Treatment Phases 1 / 2 / 3 shall consist of a minimum of nine months in total. Phase 4 shall consist of a minimum of three months.
- 3.8 Movement through the veterans treatment court phases shall be based on an individual participant's progress and demonstrated competencies associated with each phase and not based on arbitrary timeframes in each phase, other than the minimum timelines specified in section 3.7.
- 3.9 Treatment intensity/phase assignment shall be based on treatment need, and shall not be adjusted as a means of imposing a sanction for non-compliance, unless such non-compliance indicates a clinical need for the change in treatment phase.
- 3.10 Treatment services should be responsive to disabilities, ethnicity, gender, age, and other relevant characteristics of the participant.
- 3.11 Approved treatment medications should be utilized in conjunction with treatment services if there is approved need and resources are available.

3.12 The treatment provider shall provide detailed written guidelines describing how it will provide any of the treatment activities that are its responsibility, and the veterans treatment court shall have written guidelines describing how the remaining treatment activities will be implemented.

3.13 The veterans treatment court has consistent, reliable treatment providers that participate fully in all court staffings and court sessions.

4.0 CASE MANAGEMENT AND SUPERVISION

4.1 Judicial assignment should be made on the basis of interest in the problem-solving court model and should be expected to last for a minimum of three years.

Comments: Research has demonstrated that frequent rotations or short-term assignments of judges adversely affect outcome.

4.2 In Phases 1 and 2 participants shall regularly appear before the judge in court at least twice a month or more frequently if the participant is not in compliance with veterans treatment court requirements.

Comment: Research shows that participants with a higher criminogenic risk have better outcomes if they appear in court regularly rather than "as needed", based on non-compliance. Both weekly and bi-weekly frequencies of court status hearings have shown positive outcomes.

4.3 The frequency of court appearances shall ordinarily decrease as the participant progresses through the phases of treatment. In Phases 3 of veterans treatment court, the client shall appear before the judge in court at least once per month. In Phase 4, court appearances before the judge may be determined by the individual veterans treatment court.

4.4 The veterans treatment court team shall include, at a minimum, the judge, prosecutor, defense counsel, probation/community supervision officer, treatment provider, law enforcement representative, mentor coordinator, Veteran Justice Outreach Specialist/Coordinator, and coordinator. The team may also include other members such as mental health providers, health providers, drug testing personnel, veteran service officer, and vocational services personnel.

4.5 Veterans treatment court team members shall meet at least 2 times per month if not every week for veterans treatment court staffings to consider participant acceptance into veterans treatment court, to monitor participant progress, and to discuss sanctions/ rewards and Phase movement or graduation.

Comment: Optimally, participation in staffings should be in person but communications technology may be utilized (examples: webinar, conference calls, streaming video, and web-cam). While the staffing need not be cancelled in the absence of a team member, every

effort should be made for all veterans treatment court team members to attend all staffings. Consult Idaho Code of Judicial Conduct: Canon 3 (B)(7)

4.6 Staffings shall include the active participation of:

- (a) Judge**
- (b) Coordinator**
- (c) Probation officer**
- (d) Prosecutor**
- (e) Defense Counsel**
- (f) Treatment Provider**
- (g) Law Enforcement Representative**
- (h) Veterans Justice Outreach Specialist/Coordinator**

Comment: Research has clearly demonstrated that the active participation of all team members is directly tied to positive outcome and cost-effectiveness. Staffings may also include the Veterans Service Officer and Veteran Mentor Coordinator based upon availability and appropriateness. The Team Roles and Responsibilities are attached as Appendix B.

4.7 Veterans Treatment Court sessions/hearings shall be conducted on the record and attended by:

- (a) Judge**
- (b) Defense Counsel**
- (c) Prosecutor**
- (d) Coordinator**
- (e) Probation officer**
- (f) Treatment Provider**

Comments: Research has shown that the attendance of all team members shows better outcomes. As with court proceedings, the legal counsel representing the state of Idaho and the counsel representing the participant/defendant is essential. Consult Idaho Court Administrative Rule 27.

4.8 All veterans treatment court team members shall be identified by position or agency in the “consent(s) for disclosure of confidential information”, signed by each participant.

4.9 The judge shall serve as the leader of the veterans treatment court team, and shall maintain an active role in the veterans treatment court processes, including veterans treatment court staffing, conducting regular status hearings, imposing behavioral rewards, incentives and sanctions, and seeking development of consensus-based problem solving and planning. While the judge should seek consensus of the team, the judge is charged by operation of law with ultimate decision making authority

- 4.10 Community supervision / probation shall play a significant role in the veterans treatment court. Each veterans treatment court shall work with the Department of Correction and/or misdemeanor probation to coordinate home visits and other community supervision activities and regular communication as determined by the veterans treatment court team.

It is understood that supervision in the veterans treatment court setting will be individualized to the needs of participants as determined by the veterans treatment court team.

- 4.11 Each veterans treatment court shall have a written drug testing policy and protocol describing how the testing will be administered, standards for observation to ensure reliable specimen collection and chain of custody, how quickly results will be available to the team, the laboratory to be used, procedures for confirmation, and process for reporting and acting on results.
- 4.12 Monitoring of abstinence through truly random, observed urinalysis or other approved drug testing methodology shall occur no less often than an average of twice weekly or ten times per month throughout veterans treatment court participation. More frequent drug testing may be required for randomization but is not evidence-based nor cost-effective. Except in the case of alcohol testing which may be necessary on a more frequent basis and utilizing effective methodology for alcohol detection.
- 4.13 Veterans treatment court staff shall routinely have drug test results within 48 hours.
- 4.14 Drug testing shall be available on weekends and holidays.
- 4.15 The veterans treatment court shall give each participant a handbook and/or written documentation setting forth the expectations and requirements of participation including:
- (a) Clear written guidelines identifying possible sanctions and incentives and how those sanctions and incentives will be utilized.
 - (b) Court contact information with dates, times and court locations
 - (c) Drug testing locations, times and process
 - (d) Treatment contact information, location(s) and expectations
 - (e) Probation contact information
 - (f) Coordinator contact information
 - (g) Fees and costs of participation
 - (h) Mentor program information
 - (i) Veterans Service Officer contact information
 - (j) Veterans Justice Outreach Specialist/Coordinator contact information
 - (k) Graduation/Termination criteria
- 4.16 Research has shown that for sanctions to be effective, they must be, in order of importance: (a) certain, (b) swift, (c) perceived as fair, and (d) appropriate in magnitude. While sanctions for noncompliance should generally be consistent, they may need to be

individualized as necessary to increase effectiveness for particular participants. When a sanction is individualized, the reason for doing so should be communicated to the participant to lessen the chance that he or she, or his or her peers, will perceive the sanction as unfair.

Research has shown that successive sanctions imposed on a participant should be graduated to increase their effectiveness.

Increased treatment intensity shall be based upon clinical need and not imposed as a sanction for noncompliance as specified in Section 3.9

Comment: It is important that the judge convey to the participant that any sanction for noncompliance is separate from any change in treatment intensity.

4.17 Positive responses, incentives, or rewards to acknowledge desired participant behavior shall be emphasized over negative sanctions or punishment.

Comment: Research shows that at least four positive reinforcements to each punishment are most effective.

4.18 Graduation Criteria shall include at a minimum:

- (a) Successful completion of all recommended treatment**
- (b) Successful completion of the chosen cognitive restructuring program (e.g. MRT, CSC)**
- (c) 6 months of continuous abstinence from alcohol or other drugs immediately preceding graduation**
- (d) Maintenance of responsible vocational, educational, housing, and financial status for a reasonable period of time**
- (e) Demonstrated effective use of a community-based recovery support system**
- (f) Payment of fees or an agreed upon payment plan for any outstanding balance**
- (g) Acceptable written long term recovery plan**

4.19 All members of the veterans treatment court team shall maintain frequent, ongoing communication of accurate and timely information about participants to ensure that responses to compliance and noncompliance are certain, swift and coordinated.

4.20 The veterans treatment court shall have a written policy and procedure for adhering to appropriate and legal confidentiality requirements and should provide all team members with an orientation regarding the confidentiality requirements of 42 USC 290dd-2, 42 CFR Part 2.

4.21 Participants shall sign the statewide uniform consent for disclosure of confidential information and other consent forms required upon application for entry into veterans treatment court.

Comment: The statewide uniform Consent for Disclosure is attached as Appendix A.

- 4.22 Care shall be taken to prevent the unauthorized disclosure of information regarding participants. Progress reports, drug testing results, and other information regarding a participant and disseminated to the veterans treatment court team, shall not be placed in a court file that is open to examination by members of the public. Information regarding one participant shall not be placed in another participant's file such as duplicate copies of group progress notes describing progress or participation of all group members.**

5.0 EVALUATION

- 5.1 Specific and measurable criteria marking progress should be established and recorded in a centralized data system for each veterans treatment court participant (i.e. drug testing results, compliance with program requirements, sanctions and incentives, participation in treatment, payment of fees, etc.).**
- 5.2 Specific and measurable goals for the overall veterans treatment court should be established and used as parameters for data collection and information management.
- 5.3 Veterans treatment courts shall utilize the problem solving court module in the centralized data system to record participant information and information on participation, phase movement and graduation.**
- 5.4 A wide variety of timely and useful reports shall be available from the centralized data system for review by veterans treatment court team members but will not include information that identifies individual participants.
- 5.5 Veterans treatment courts shall provide utilization data to the Idaho Supreme Court promptly by the 10th of the month. The utilization report provides at a minimum, the number of participants active in veterans treatment court at the start of the month, the number of new admissions to veterans treatment court during the month, the number of unsuccessful terminations and graduates during the month, and the number of participants enrolled on the last day of the month.**
- 5.6 Data to assess whether the veterans treatment court is functioning as intended, should be collected throughout the course of the program, particularly in the early stages of implementation.
- 5.7 Outcome evaluations using comparison groups should be implemented to determine long-term effects of the veterans treatment court.
- 5.8 Initial veterans treatment court intake information must be obtained for each participant assessed for entry into veterans treatment court. Complete intake information must be obtained for all participants who enter veterans treatment court. This data must be entered into the centralized data system for the veterans treatment**

court module. This information is essential to evaluate the effectiveness of the Idaho veterans treatment courts.

- 5.9 The district court of each county which has implemented veterans treatment court(s) shall annually evaluate the program's effectiveness and provide a report to the Supreme Court, if requested.
- 5.10 A client feedback evaluation should be conducted twice-per-year by each veterans treatment court.
- 5.11 An annual report, *The Effectiveness of Idaho Courts* will be presented to the Governor and the Legislature by the *Idaho Drug Court and Mental Health Court Coordinating Committee*, no later than the first day of the Legislative session.
- 5.12 Evaluation results/ recommendations should be reviewed and implemented on at least an annual basis and be used to analyze operations, modify program procedures, gauge effectiveness, change therapeutic interventions, measure and refine program goals, and make decisions about continuing or expanding the program.
- 5.13 Evaluation results should be shared widely.

6.0 PARTNERSHIPS / COORDINATION OF SERVICES

- 6.1 A formal written agreement, updated as needed, shall provide the foundation for collaboration, working relationships, and operating policies and procedures at the statewide level, between the Idaho Supreme Court, the Idaho Department of Health and Welfare, the Division of Veterans Services, the Department of Veterans Affairs, and the Idaho Department of Correction.
- 6.2 Each veterans treatment court shall have a formal written agreement (e.g. MOU) to provide the foundation for collaboration, working relationships, and operating policies and procedures at the local level, among the key agencies responsible for the operation of each local veterans treatment court. The agreement will be signed by the executive authority for each key agency, including at a minimum, the judicial district, the prosecutor, public defender, probation agency, treatment provider and County Commission, updated as needed.
- 6.3 Each veterans treatment court should work to establish partnerships with additional public and private agencies and community-based organizations in order to generate local support and enhance veterans treatment court program effectiveness. Such partnerships foster a complete continuum of diversion and intervention opportunities (sequential intercept model) in the community.
- 6.4 The Trial Court Administrator and Administrative District Judge in each District should convene a meeting on an annual basis engaging the executive authority of each stakeholder

agency or organization to identify and address district-wide issues affecting the operations and outcomes of the district's problem-solving courts.

- 6.5 **The Coordinator for each veterans treatment court shall convene a team meeting for addressing program issues such as program evaluation results, policy changes, program development, quality assurance, communication, and problem-solving at least twice a year.**
- 6.6 **The Judge for each veterans treatment court shall convene meetings at least twice a year to provide for cross-disciplinary and team development training for all members. The Judge, as team leader, is responsible for assuring participation. The Veterans Treatment Court Coordinator is responsible for assessing training needs and arranging training.** Local, state, or national training and conferences, as well as various distance learning opportunities such as video presentations or webinars
- 6.7 A local coordinating committee of representatives from organizations and agencies including the court, law enforcement, corrections, treatment and rehabilitation providers, educators, health and social service agencies, community organizations and faith community should meet regularly to provide feedback and input to the veterans treatment court program and aid in the acquisition and distribution of resources related to the veterans treatment court.
- 6.8 A state or regional training conference for veterans treatment court teams should be held annually, budget funds permitting.
- 6.9 Information on national and regional veterans treatment court training opportunities as well as available training resources will be disseminated to all veterans treatment courts, by the Statewide Coordinator.

CONCLUSION

Idaho's Courts can use these Standards and Guidelines as a foundation for creating new veterans treatment courts and for maintaining and evaluating existing veterans treatment courts. These Standards and Guidelines will assure appropriate consistency while still enabling flexibility to shape veterans treatment courts to meet regional needs. The result will be a strong, consistent, statewide veterans treatment court system that will produce positive and cost effective outcomes for offenders and the community.

IDAHO VETERANS TREATMENT COURTS



What are Veterans Treatment Courts?

Veteran Treatment Courts (VTC) use the successful framework of problem-solving courts where local teams hold regular meetings and hearings to ensure offenders in the community are held accountable. These courts match judicial oversight, intensive treatment, and probation supervision; however, the focus for VTC is on ensuring that offenders that have served their country and have substance abuse and/or mental health problems receive treatment and support in the community rather than in a correctional facility.

Challenges and Opportunities

These courts face the challenge of engaging offenders with trauma and Post Traumatic Stress Disorders (PTSD), as well as the military culture that until recently, had not typically addressed mental health needs. In Idaho, local court teams work with the Veterans Administration and community providers to coordinate resources, services, and to take advantage of the supportive camaraderie of military experience. In FY 2015, 112 veterans were served in a Veterans Treatment Court.

FY 2016 Idaho Veterans Treatment Courts Status

County	Start Date
Nez Perce	August 2013
Canyon	February 2012
Ada	March 2011
Twin Falls	October 2015
Bannock	March 2012
Bonneville	October 2015

For more information on Idaho Veterans Treatment Courts Contact:
The Idaho Supreme Court-Director of the Division of Justice Services- Kerry Hong – khong@idcourts.net
or visit the National Website: www.JusticeForVets.org

Behavioral Health Crisis Center of East Idaho

2,359

Clients

1,536 regular clients + 813 short-term clients

For example, short-term clients may only come in for a referral to a community resource and do not need a nursing assessment.

Referral Source

Hospital 228



Law Enforcement 259



Self 862



1,165

Law Enforcement Time Savings

259 Law Enforcement Referrals \times 4.5 hours = 1154.5 Estimated law enforcement time saved.

Per law enforcement, 47 people would have been taken to the ER by law enforcement if the Crisis Center were not available.

\$281,124

Hospital ER Savings

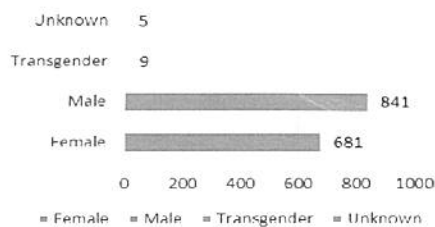
228 referrals from hospitals \times \$1,223 (average ER visit cost) = \$281,124 Estimated Savings.

\$483,000

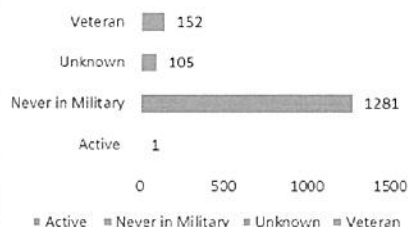
Inpatient Hospitalization Savings

138 diverted inpatient hospitalization = (138 admissions \times avg. 5 days) \times \$700 daily rate = \$483,000

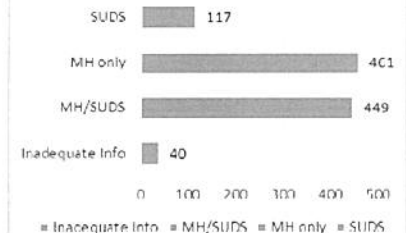
Gender



Veteran Status

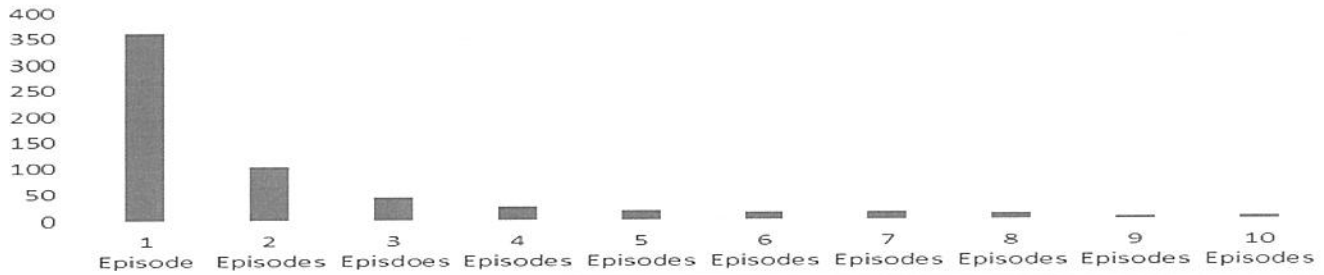


Diagnosis



Data 12-12-2014 through 12-31-2015

Client Episode



There are a number of clients with multiple episodes. Nearly all of those clients have chronic conditions such as schizophrenia and bipolar disorder. Some clients with substance use disorders have had multiple episodes due to readmission after a relapse.

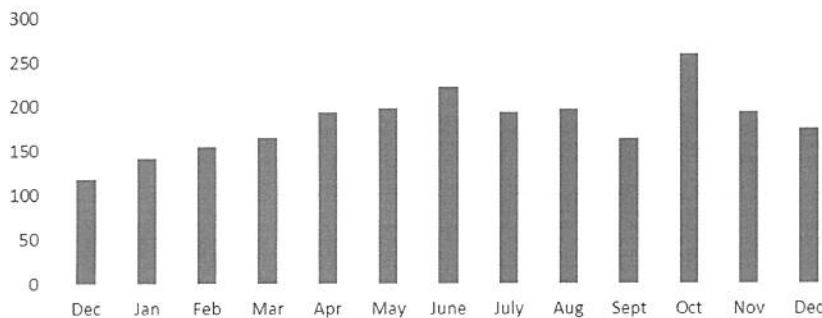
Number of Days with (x) number of Clients

# of Clients	1	2	3	4	5	6	7	8	9	10
# of Days	50	63	51	52	53	41	25	17	9	6

14 Hrs 39 Min

Average Length of Stay

Visits per Month



Client County

County Name	Total
ADA	2
BANNOCK	49
BINGHAM	86
BONNER	2
BONNEVILLE	1230
BUTTE	3
CASSIA	1
CUSTER	3
FRANKLIN	3
FREMONT	20
JEFFERSON	40
LEMHI	4
MADISON	36
NEZ PERCE	2
Out of State	40
TETON	9
TWIN FALLS	3
POWER	1
BOUNDARY	1
GOODING	1
Grand Total	1536



The Crisis Center has:

- Diverted 138 people away from inpatient hospitalization.
- Received 228 people from community hospitals.

"The crisis center has empowered law enforcement to take an active role in addressing mental health issues in our community."

Officer Zeb Graham , Bonneville County Sheriff's Office

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, January 27, 2016

DOCKET NO.	DESCRIPTION	PRESENTER
05-0102-1501	Rules and Standards for Secure Juvenile Detention Centers	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
05-0201-1501	Rules for Residential Treatment Providers	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
05-0202-1501	Rules for Staff Secure Providers	Sharon Harrigfeld, Idaho Department of Juvenile Corrections
05-0203-1501	Rules for Reintegration Providers	Sharon Harrigfeld, Idaho Department of Juvenile Corrections

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 27, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: Steven Jett, Idaho Department of Juvenile Correction (IDJC); Sharon Harrigfeld, IDJC; Jessica Moncala, IDJC; Jason Shaw, OAR.

Chairman Wills called the meeting to order at 1:32 PM.

Chairman Wills appointed **Rep. McMillan** in place of **Rep. Scott** to proof read the minutes.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 13, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 19, 2016 meeting. **Motion carried by voice vote.**

DOCKET NO. 05-0102-1501: **Director Sharon Harrigfeld**, Idaho Department of Juvenile Corrections (IDJC), presented **Docket No. 05-0102-1501**, Rules and Standards for Secure Juvenile Detention Centers. The training and staff development plan will now include the approval of a POST certified appropriate use of force instructor. Based on the POST approved grading matrix, IDJC staff must demonstrate an adequate level of proficiency when asked to use the appropriate use of physical intervention. All direct care staff working fewer than forty hours will now be required to obtain a part time juvenile detention officer certificate. The requirement to record deposits and withdrawals from a juvenile offender's account has been removed. The remaining changes were made to update the language throughout the rules for consistency and correct grammatical errors and redundancies.

In response to a question from the committee, **Steve Jett**, IDJC Administrator, explained the removal of a required monthly inspection is due to a redundant requirement. These inspections already take place several times within an hour.

MOTION: **Rep. Dayley** made a motion to approve **Docket No. 05-0102-1501**.

In response to a question from the committee, **Director Harrigfeld** explained the detention facilities do not maintain bank accounts or records of money for the juvenile. They do not earn money and they are not spending money while in the care facility.

**VOTE ON
MOTION:** **Motion carried by voice vote.**

DOCKET NO. 05-0201-1501: **Director Sharon Harrigfeld**, Idaho Department of Juvenile Corrections, presented **Docket No. 05-0201-1501**, Rules for Residential Treatment Providers. This rule pertains to sixty six contract providers in the state. These clarifications were requested last year by the committee. The definition of a medical health professional is updated in definitions and the new definition is adopted throughout the rule. State employees cannot transport juveniles in provider vehicles unless an emergency exists.

In response to a question from the committee, **Director Harrigfeld** explained the term medical authority is outdated and medical health professional is defined and used throughout the rule.

MOTION: **Rep. Dayley** made a motion to approve **Docket No. 05-0201-1501**. **Motion carried by voice vote.**

DOCKET NO. 05-0202-1501: **Director Sharon Harrigfeld**, Idaho Department of Juvenile Corrections, presented **Docket No. 05-0202-1501**, Rules for Staff Secure Providers. The definition of a medical health professional is updated in definitions and the new definition is adopted throughout the rule. The rule clarifies unclothed body searches must have an adult of the same gender accompanying the juvenile while they are being searched. Body cavity searches must be conducted in a medical facility outside of the residential treatment provider.

In response to a question from the committee, **Director Harrigfeld** explained IDJC procedures and policies indicate they defer to the juvenile's specified gender and the juvenile may indicate which gender the adult who accompanies them while being searched should be.

MOTION: **Rep. Dayley** made a motion to approve **Docket No. 05-0202-1501**. **Motion carried by voice vote.**

DOCKET NO. 05-0203-1501: **Director Sharon Harrigfeld**, Idaho Department of Juvenile Corrections, presented **Docket No. 05-0203-1501**, Rules for Reintegration Providers. The definition of a medical health professional is updated in definitions and the new definition is adopted throughout the rule. The rule clarifies unclothed body searches must have an adult of the same gender accompanying the juvenile while they are being searched. Body cavity searches must be conducted in a medical facility outside of the residential treatment provider.

MOTION: **Rep. Dayley** made a motion to approve **Docket No. 05-0203-1501**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:56 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Friday, January 29, 2016

SUBJECT	DESCRIPTION	PRESENTER
RS24140	Controlled subs, withheld judgment	Michael Henderson, Legal Counsel, Idaho Supreme Court
RS24146	Uniform probate code, minor claim	Michael Henderson, Legal Counsel, Idaho Supreme Court

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
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email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Friday, January 29, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: Michael Henderson, Idaho Supreme Court; Judge Barry Wood, ISC; Holly Koole Rebholtz, IPAA.

Chairman Wills called the meeting to order at 1:31 PM.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 25, 2016, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 27, 2016, meeting. **Motion carried by voice vote.**

RS 24140: **Michael Henderson**, Legal Counsel for the Idaho Supreme Court, presented **RS 24140**. The proposed legislation was recommended by judges presiding over problem solving courts. The belief is it would be productive and helpful to provide withheld judgments or hold out the promise of a withheld judgment, to participants in the problem solving courts as an added incentive to complete treatment. However, Idaho Code 37-27-38, pertaining to sentencing criteria for cases involving controlled substances, often prevents judges from granting withheld judgments. There are three conditions in this section for a withheld judgement in a controlled substance case, and they are stringent and often unattainable. More than 90% of controlled substance offences are charged as manufacturing, possession with the intent to deliver or simple possession. Under the conditions, a misdemeanor possession of marijuana or a DWP as a result of a unpaid fine for a infraction or for other reasons, would disqualify the defendant from eligibility to receive a withheld judgment. In regard to the defendant successfully cooperating with law enforcement, many offenders are not given the opportunity to do so. This proposed legislation would allow judges to offer a withheld judgment at their discretion.

In response to a question from the committee, **Mr. Henderson** explained it will be possible to identify the offender even if a withheld judgment is granted. Using the Odyssey portal it would still be possible to search an individuals name and see the charge, even if it resulted in a withheld judgment.

MOTION: **Rep. Dayley** made a motion to introduce **RS 24140**. **Motion carried by voice vote.**

RS 24146:

Michael Henderson, Legal Counsel for the Idaho Supreme Court, presented **RS 24146**. This proposed legislation is recommend by the Supreme Court's guardianship and conservatorship committee. The purpose is to improve the statute regarding minor's compromise. This is a situation where a minor brings an action for the recovery of damages, a settlement offer is made and must be accepted by an adult on behalf of the minor. In the case a parent is unable to do so, the current language does not allow for the decision to be made by a conservator or guardian. Additionally, the Courts may need the prerogative to pass over the adult who by statute is first in line, and give the decision making authority to a different authority figure in the best interest of the child. Guidelines are established to determine if the compromise is in the best interest for the child.

In response to questions from the committee, **Mr. Henderson** stated he believes the situations where a parent would be passed over by the courts would be very rare. This legislation does include requirements that when the courts direct the funds to be paid they are subject to the provisions of an appropriate protective order. The use of District Court is intended to refer to the Court as a whole and does not exclude the Magistrate Division. However, in most cases the dollar amount would be significant enough the case would be heard before the District Court rather than the Magistrate Division. The Court has the discretion to determine who has access to the records and there is a provision that allows for records to be sealed. This legislation does not address sealing the files of a minor's compromise, and a minor's compromise may not fall under the provisions for sealing court records in Chapter 32. Per a request, the Rule 32 Committee and the Courts could consider adding language pertaining to sealing the records of a minor's compromise hearing.

MOTION:

Rep. Nye made a motion to introduce **RS 24146**. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:04 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, February 01, 2016

SUBJECT	DESCRIPTION	PRESENTER
<u>RS24139C1</u>	Courts/debt payments/criminal cases	Michael Henderson, Legal Counsel, Idaho Supreme Court

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, February 01, 2016
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow
ABSENT/EXCUSED: Representative(s) Kerby, Trujillo
GUESTS: Michael Henderson, Idaho Supreme Court; Greg Casey, Veritas Advisors; Holly Koole Rebholtz, IPAA; Kerry Hong, ISC.

Chairman Wills called the meeting to order at 1:30 PM.

RS 24139C1: **Michael Henderson**, legal counsel for the Idaho Supreme Court, presented **RS 24139C1**. The proposed legislation provides direction for the Courts to prioritize payments received. When an offender makes a partial payment toward the fines, fees, costs and restitution they have been ordered to pay by the court, the Clerk of the Court must have guidance in order to know which debts should be paid first. In order to do so, "court costs" must be defined in statute, misdemeanor probation supervision fees must receive the same priority as the felony probation supervision fees, and all payments, other than some restitution payments, must be made through the Clerk of the Court. These changes are essential for the operation of the Odyssey Court Management System which will ensure payments are tracked and given the proper priority.

MOTION: **Rep. McDonald** made a motion to introduce **RS 24139C1**.
In response to questions from the committee, **Mr. Henderson** explained the current priority of payments is not in rule and is generally adopted by vote or order of the Supreme Court each year. The priority of payments has not been incorporated into rule and has been updated on a yearly basis depending on the Legislature's enactment of fees or costs. Restitution payments made using the alternate method of payment are difficult to track. Payments made in accordance with Idaho Code 20-209H are a high priority payment, and will be simpler to track. Although restitution payments made directly to the victim are not a regular occurrence, they are very difficult to track. However, efforts are being made to track these payments. An attorney could advise their client to make the restitution payment first, outside of the court because this payment receives a higher priority. It is imperative that a process is established to record payments made outside of the courts. This proposed legislation does not change the options currently available for making restitution payments.

VOTE ON MOTION: **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:01 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, February 03, 2016

SUBJECT	DESCRIPTION	PRESENTER
<u>RS24116</u>	Appellate Public Defenders / Appeals	Rep. Perry

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, February 03, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) McDonald

GUESTS: Sara Thomas, SAPD; Eric Fredericksen, SAPD.
Chairman Wills called the meeting to order at 1:31 PM.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 21, 2016, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the January 29, 2016, meeting. **Motion carried by voice vote.**

RS 24116: **Rep. Perry** presented **RS 24116**. The statute pertaining to the duties of the office of the State Appellate Public Defender (SAPD) can be narrowly interpreted to limit the SAPD to representation only when an individual has already been convicted or when post-conviction relief has been denied. Other felony appeals result when the State files an appeal before conviction or when post-conviction relief has been granted. During Fiscal Year 2015 a district judge appointed a private attorney to handle a felony post-conviction appeal and ordered a county to pay for that representation. The private attorney asserted the SAPD could not represent the individual because post-conviction relief had been granted and the State had filed the appeal. Ultimately, the Idaho Supreme Court reversed the district court's order and SAPD was appointed in the case. The proposed legislation is consistent with the historical practices of SAPD and clarifies SAPD's authority to provide representation in all felony appeals, regardless of whether the appeal is brought by the State or by the individual. As a result SAPD can continue to ensure the cost of appellate representation in felony appeals is not an extraordinary burden on the counties of Idaho.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 24116**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:38 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, February 09, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 429	Withheld Judgement	Michael Henderson, Idaho Supreme Court
RS24407	Fees / Surcharge general fund deposit	Judge Barry Wood, Idaho Supreme Court

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 09, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Sims

GUESTS: Judge Barry Wood, ISC; Michael Henderson, ISC.

Chairman Wills called the meeting to order at 1:31 PM.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 1, 2016, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 3, 2016, meeting. **Motion carried by voice vote.**

H 429: **Michael Henderson** presented **H 429**. This bill has been recommended by the Supreme Court, based on the recommendation of the Court's Administrative Conference. Withheld judgment provides the defendant with a second chance and avoids the burden of an actual conviction that may impair employment or education opportunities. Withheld judgments are not granted routinely and are given at the discretion of the court. The courts use Idaho Misdemeanor Criminal Rule 10 when considering a withheld judgment in a misdemeanor case; however, these factors are also used when determining if a withheld judgment should be granted in a felony case. Idaho Misdemeanor Criminal Rule 10 also provides under what extraordinary circumstances a second withheld judgement can be granted. There are three stringent, and often unattainable, conditions pertaining to granting a withheld judgement for a controlled substance case. These limitations often prevent judges from granting a withheld judgment in these cases. A previous misdemeanor conviction for possession of marijuana, no matter how long ago it occurred, will foreclose the possibility of a withheld judgement. A DWP where the defendant drove after his or her license had been suspended for failure to pay an infraction ticket would also prevent a withheld judgment. This will provide an additional option for the courts that will increase the likelihood of success in problem solving courts.

In response to questions from the committee, **Mr. Henderson** clarified even though a case is dismissed through a withheld judgment, law enforcement and the public will not lose access to the case file. Case files will be available through the repository and the Bureau of Criminal Investigation. Currently, access to records of arrest are not affected by a withheld judgment, and the passage of this legislation will not change the status quo. Most drug courts are post sentencing courts and the decision of whether to grant a withheld judgement or not, is made at the time of sentencing. In most cases, a withheld judgement is not granted at the time of sentencing. Thus, most individuals in drug court are not seeking a withheld judgement.

MOTION: **Rep. Dayley** made a motion to send **H 429** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

RS 24407:

Judge Barry Wood presented **RS 24407**. The purpose of this legislation is to be a place holder bill. This legislation is a necessary part of a larger proposal specifically designed to correct the structural funding issue with the Drug Court, Mental Health Court, Family Court Services Fund (Drug Court Fund). JFAC requested this legislation in anticipation of their action on the Court's budget for FY 2017, which will result in the transfer of certain non-problem solving court obligations now being paid out of the Drug Court Fund back to the General Fund, and in turn, the General Fund will receive the surcharge monies now going into the Drug Court Fund to off-set the funding shift. This will accomplish the re-direct of surcharge monies if JFAC passes the proposal and if the legislature approves the Court's FY 2017 appropriation with these changes. This proposed legislation amends two statutes related to the surcharge monies. Decreases in the FY 2009 and 2010 budgets required non-problem solving court related personnel and expenses be shifted to the Drug Court Fund. In 2010, **H 687** was passed as a product of cooperation between the Court and the legislature, and imposed a fee of \$10 on every infraction, \$50 on every misdemeanor and \$100 on every felony. However, the revenues have not materialized as originally projected. The fees were set to sunset in 2013 but the legislature determined the fees should continue. The net effect of this amendment is that the Drug Court Fund would no longer receive surcharge monies generated under Idaho Code 31-3201H.

In response to a question from the committee, **Judge Wood** explained the original proposal was for a \$25 flat fee for infractions, misdemeanors, and felony convictions. The proposal was revised to a \$20 flat fee for each, however the final decision was to charge \$10 for every infraction, \$50 for every misdemeanor and \$100 for every felony. It was assumed, and later proven true, that collections of the \$100 fine for felony cases would fail to be collected. This is because a felony conviction resulting in the individual being placed in a penitentiary the courts have no recourse to collect the fee. A felony conviction resulting in probation does allow for the probation officer to attempt to collect the fee but they rarely materialize due to other fees and fines the offender must pay. There are fewer misdemeanors than infractions, but compared to recent history there are fewer convictions of both. A misdemeanor offender may use a deferred payment agreement, and these agreements are often paid, but there is not a collection mechanism for misdemeanor convictions. An infraction can result in a suspended license as a result of an unpaid fee. The courts can establish a fee but they have no recourse to collect them. There is a statute allowing the Administrative District Judge to work with the clerk of the court to set up a collection with a collection agency. Twin Falls County has utilized this provision and it has proven successful.

MOTION:

Rep. Trujillo made a motion to introduce **RS 24407**.

In response to a question from the committee, **Judge Wood** stated he has not been involved in any discussions to revert to the original proposal of a flat fee for all convictions. Previous discussions have determined it would be very problematic to revert to a flat fee for all convictions, as it is often law abiding citizens who receive an infraction.

In response to a question from the committee, **Judge Wood** explained it would require fiscal analysis to determine whether making misdemeanors equal to infractions would remove the motivation to keep charges as misdemeanors, rather than making them infractions, due to the monetary gain that accompanies misdemeanors. The reason for changing some misdemeanors to infractions is because of the cost savings when a public defense is not required. An infraction is a civil offense, not criminal, so equalizing them has not been considered as a solution.

**VOTE ON
MOTION:**

Motion carried by voice vote.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:17 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, February 11, 2016

SUBJECT	DESCRIPTION	PRESENTER
<u>H 434</u>	Priority of Payments	Michael Henderson, Idaho Supreme Court
<u>RS24430</u>	Probate code, minor claim	Michael Henderson, Idaho Supreme Court
<u>RS24481</u>	No contact orders	Michael Henderson, Idaho Supreme Court
<u>RS24369C2</u>	Alcohol violation, vacated/sealed	Rep. Gannon
<u>RS24380C2</u>	Lien/ Non-consensual common law lien	Rep. Kerby
<u>RS24405C2</u>	Alcohol, age infractions	Rep. Luker
<u>SCR 132</u>	Peace officers	Rep. McDonald
<u>RS24364</u>	Staff attorneys / appointments, salaries	Rep. Perry
<u>RS24469</u>	Fines, fund deposits	Rep. Perry

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, February 11, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Scott

GUESTS: Holly Koole Rebholtz, IPAA; Paul Orlovich, Aatronics, INC; Barry Wood, ISC; Michael Henderson, ISC; Kelly Miller, Idaho Coalition Against Domestic Sexual Violence; Kathy Griesmyer, ACLU Idaho; Aaron Golart, IDWR; George Gutierrez, Crime Victims Compensation; Leah Little, Crime Victims Compensation; Dan Chadwick, IAC; Amber Pence, City of Boise; Shawna Dunn, Ada County Prosecutors.

Chairman Wills called the meeting to order at 1:31 PM.

RS 24380C2: **Rep. Kerby** presented **RS 24380C2** which prohibits the use of non-consensual common law liens, and implements a penalty for anyone attempting to do so. Non-consensual common law liens are different from a lien which can be placed on the home because an individual who owes money, because they do not require notice to be given to the home owner. The individual placing a non-consensual common law lien on a residence is not required to have or list a reason for doing so. This legislation provides instruction for reversing a non-consensual common law lien if it has been placed on an individual's home.

MOTION: **Rep. Luker** made a motion to introduce **RS 24380C2**. **Motion carried by voice vote.**

RS 24364: **Rep. Perry** presented **RS 24364** which shifts the cost associated with staff attorneys serving district judges, from the counties to the Idaho Supreme Court. This change has the support of the counties and the courts. Ultimately this shift should remove some of the pressure on the County's Justice Levy Fund.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 24364**. **Motion carried by voice vote.**

RS 24469: **Rep. Perry** presented **RS 24469** which seeks to redistribute a percentage of fines from State Motor Vehicle Laws and DUIs and develop a dedicated funding stream for the Drug Court, Mental Health Court, Family Services Court Fund. Presently 22.5% of these fines are deposited into the Public School Income Fund and this allocation has not been revised since 1971. Shifts in policy, practice and priority make it clear a better funding stream is needed for Speciality Courts. This new funding stream would allow for specialty courts to be established in counties desiring to have Specialty Courts.

MOTION: **Rep. Cheatham** made a motion to introduce **RS 24469**.

In response to a question from the committee, **Rep. Perry** explained the redistribution of the percentage is not being done with the express purpose of taking money away from the Public School Income Fund. Historically 100% of these fines and fees were going to the Public School Income Fund, but through redistribution and changes in funding, the fund now receives only 22.5% of the fees and fines. The redistribution outlined in this legislation is not the first time these funds and fees have been directed away from the Public School Income Fund, which now receives the majority of its funding from the General Fund.

**VOTE ON
MOTION:**

Motion carried by voice vote.

RS 24405C2:

Rep. Luker presented **RS 24405C2**, which reclassifies first offenses for under age consumption or possession of alcohol from a low level misdemeanor to an infraction. Penalties for a violation have been revised due to the new classification. Subsequent violations which constitute a misdemeanor will begin as a first misdemeanor because of the different gradation of the penalty. Because an infraction is a civil violation an officer does not have the right to take the juvenile into custody, however taking a juvenile into custody is sometimes necessary when they are in an unsafe condition. Language has been added to allow a juvenile judge and peace officer to take care of transportation and inform parents.

In response to a question from the committee, **Rep. Luker** clarified the new language does give specific instruction to a juvenile judge and a peace officer regarding parental notification of the initial violation.

MOTION:

Rep. Gannon made a motion to introduce **RS 24405C2**. **Motion carried by voice vote.**

H 434:

Michael Henderson, Idaho Supreme Court, presented **H 434**. In the past, the courts have established a priority of payments based on what they believe to be the intent of the legislature. However, the courts would prefer the legislature determine what the priority should be. This legislation would establish payments must go through the clerk of the court, since currently a number of payments are being directed around the clerk of the court. With the implementation of Odyssey, it is imperative these payments go through the clerk of the court for proper prioritization. Directing a payment around the clerk of court may mean the payment was made directly to the probation officer, or a problem solving court, automatically giving that payment a higher priority. More often than not, there are payments of greater priority that should have been paid before the probation officer or the problem solving court. There is concern about giving other payments a higher priority than restitution to victims. The provision indicates restitution to a victim does not have to be made through the clerk of the court and may be paid directly to the victim, however the legislature has previously chosen to give court costs priority over restitution. (See Attachment 1).

In response to a question from the committee, **Mr. Henderson** explained the legislative intent regarding priority of payments is so vague it is imperative the courts receive clarification. Many items could be included within the definition of court costs because it has never been defined in statute and without a definition it is difficult to establish the priority. Over the years, different statutes have given higher priority to different items like restitution, fees, and court costs. Even though a statute may appear to give priority to restitution, there have been statutes enacted after that statute giving another item higher priority.

In response to a question from the committee, **Mr. Henderson** explained the changes this legislation makes to the current priority of payments established by the court, is placing misdemeanor probation fees with felony probation fees, and listing the surcharge, court technology fee and problem solving courts fee under the definition of court costs. An alternative would be to remove the surcharge, the court technology fee and the problem solving courts fee from the definition of court costs, essentially putting the current priority of payments established by the courts into statute, as a way to clarify the legislature's intent for priority of payment. It may not be in the best interest of crime victims to place restitution ahead of probation fees because without the probation officer, there is no one to confirm the offender is maintaining a job or making their restitution payment to the victim. The current amount of court costs is \$17.50, and with the additional fees being added to the definition of court costs in this legislation, the total would be \$127.50. The Court Clerk does take responsibility for collecting restitution payments, in addition to the other fees collected, and would be aware of any victims who are not being paid. The Clerk will collect the restitution and pay the restitution in order of priority. The Clerk may use probation revocation, collection agencies and tax intercept to insure the restitution is paid. Victims may execute on the offender's property to insure payment of restitution.

Holly Koole Rebholtz, IPAA, testified **in opposition** to **H 434**. IPAA agrees the court system should be funded. However, it is questionable whether placing the fees on the defendant is the correct method to fund the judicial system. The priority must be restitution for the victim. When other items are prioritized ahead of the victim's restitution, the result is the victim never receiving their compensation. Restitution is essential to the rehabilitation of the offender, it is a deterrence in crime, and is incredibly important for victims to receive. It is imperative the victim is paid first and made whole.

In response to a question from the committee, **Ms. Rebholtz** stated restitution is a very important part of the sentence. When the offender knows restitution is a part of their probation it is often an incentive to work diligently to make restitution. Once a case has left the control of the judiciary there is nothing the court can do to control whether the offender continues to make restitution payments. At that time, the victim has very little recourse and limited options to collect the remaining restitution. A civil judgement can be ordered, but the result is shifting the burden to the victim to collect their restitution. Ultimately, the victim incurs more cost by hiring an attorney. Criminal restitution has limited recourse for the victim, there are no mechanisms in place.

MOTION:

Rep. Nye made a motion to send **H 434** to the floor with a **DO PASS** recommendation.

Paul Orlovich, Aatronics, Inc. testified **in opposition** to **H 434**. He presented information about his personal experience with the restitution process due to his unfortunate experience of being embezzled from and ultimately losing his business. It was a very slow process to receive payment from the offender as they were working a minimum wage job and making small payments. When the court ordered the offender to sell anything they had purchased with the embezzled monies, they explained they had transferred the title of the vehicle to a family member but had not yet received a payment. This was only one of many challenges he faced trying to collect restitution and he believes victims should receive compensation first.

Shawna Dunn, Ada County Deputy Prosecutor testified in **opposition** to **H 434**. The number of criminal defendants who own property sufficient to pay restitution is relatively few. She has not seen anyone successfully execute their civil judgement through the filing of a lien on real property. Restitution may also be collected in installment payments which are set between \$50 and \$100 depending on the income of the individual. Courts costs may be \$127.50 but probation fees are also listed above restitution in order of priority and are typically \$50 to \$60. Full restitution is achievable to some degree, but only if the money being collected is going to the victim, not to the fees. If restitution payments were prioritized over probation fees, the offender would not be off of probation. Prioritizing restitution over probation fees may have a budgetary impact but would not result in the defendant being off probation or no longer being required to have a job or make restitution payments.

In response to a question from the committee, **Ms. Dunn** explained according to the priority of payments in this bill, the probation portion of the fees would carry the greatest weight financially of the items listed as higher priorities than restitution. Many victims are owed restitution amounting to less than \$150 and many offenders have less than \$150. If that offender pays \$100 to the courts, that may be the only payment ever made and it was made to the court, not to the victim.

**SUBSTITUTE
MOTION:**

Rep. Sims made a substitute motion to **HOLD H 434** in committee.

Chairman Wills suggested the committee not take any action on **H 434** until all members of the committee could be present on February 15, 2016.

**MOTION
WITHDRAWN:**

Rep Sims withdrew her substitute motion.

**MOTION
WITHDRAWN:**

Rep. Nye withdrew his motion.

Kelly Miller, Idaho Coalition against Domestic Sexual Violence testified in **opposition** to **H 434**. The bill lowers the priority of restitution payments to victims, as well as crime victim compensation. Individuals who are directly impacted by crime should be the highest priority. By expanding the definition of court costs this legislation effectively lowers the ability of crime victim compensation program which is an essential program for victims. This could reduce payments to treatment providers, who will in turn bill the victim for the services not paid under crime victim compensation. This may reduce the types of services crime victim compensation can offer. There is a need for court programs, but Idaho cannot continue to fund it's court systems through court fees, fines and restitution. Without the necessary funding streams or direct appropriations government agencies must find ways to defer the cost to the citizens. In this case, the cost is being deferred to victims. Executing a civil judgement to receive restitution is a false solution. Victims of stalking and sexual violence crimes are forced to interact with the offender in civil court, ultimately resulting in more harm.

Chairman Wills stated **H 434** would continue to be considered on February 15, 2016, and **RS 24430** and **RS 24481** will also be heard on February 15, 2016.

SCR 132:

Rep. McDonald presented **SCR 132**. The purpose of this legislation is to recognize and honor the Idaho Peace Officers for their service to the State of Idaho. These individuals run toward the danger despite the possibility of personal harm. It is important to pay tribute to the brave men and women who put their lives on the line every day.

Chairman Wills stated his support for **SCR 132**. The bravery of these men and women who put themselves in harms way in order to save individuals in perilous situations on the road ought to be commended.

MOTION: **Rep. Dayley** made a motion to send **SCR 132** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McDonald** will sponsor the bill on the floor.

RS 24369C2: **Rep. Gannon** presented **RS 24369C2**. This legislation would apply to an individual who received only one minor in possession criminal misdemeanor conviction and plead guilty. This legislation would allow the individual, if they have not received another alcohol or drug conviction for five years following the first violation, to file a form at the clerk's office and have the guilty plea vacated and the matter sealed.

MOTION: **Rep. McCrostie** made a motion to introduce **RS 24369C2**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:37 PM.

Representative Wills
Chair

Katie Butcher
Secretary

PRIORITY OF PAYMENTS – STATUTES

1984 – I.C. § 19-5302 – “There shall be a full restitution to such victim or victims before the court may order any payment be made by the defendant to any governmental entity.”

1986 – I.C. § 19-5302 – “provided, however, the court may order the defendant to make the payments required in sections 20-225 and/or 20-614(7), Idaho Code, before any payment of restitution is made to the victim or victims.”

1986 – I.C. § 72-1025(2) – Payments to the Victims Compensation Account “shall have priority over all other judgments of the court, except an order to pay court costs.”

2007 – I.C. § 72-1105(3) – Fee for the Peace Officers and Detention Officer Temporary Disability Fund, “except as otherwise provided in section 72-1025 . . . shall have priority over all other judgments of the court, except an order to pay court costs.”

PRIORITY OF PAYMENTS TO BE ORDERED AT SENTENCING

1. \$17.50 court costs for felonies and misdemeanors (\$12.50 distributed 86% to general fund and 14% to P.O.S.T. Fund, and \$5.00 to district court fund; if magistrate court facilities are provided by the city, then \$10.00 distributed 86% to general fund and 14% to P.O.S.T. Fund, \$5.00 to city general fund and \$2.50 to city capital facilities fund) (I.C. § 31-3201A(2)).

\$16.50 court costs for infractions (\$11.50 distributed 86% to general fund and 14% to P.O.S.T. Fund, and \$5.00 to district court fund; if magistrate court facilities are provided by the city, then \$9.00 distributed 86% to general fund and 14% to P.O.S.T. Fund, \$5.00 to city general fund and \$2.50 to city capital facilities fund) (I.C. § 31-3201A(3)).

2. Victims' Compensation Account (I.C. § 72-1025): Unless the court makes a finding of inability to pay, \$37.00 fine or reimbursement for each misdemeanor count; \$75.00 fine or reimbursement for each felony count. In addition to the \$37.00 misdemeanor and \$75.00 felony fine or reimbursement, there is a fine or reimbursement of not less than \$300.00 per count for any conviction or finding of guilt for any sex offense, including, but not limited to, offenses under I.C. §§ 18-1506, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6108, 18-6605, and 18-6608.
3. Peace Officer and Detention Officer Temporary Disability Fund (I.C. § 72-1105): Unless the court makes a finding of inability to pay, \$3.00 fine for each felony or misdemeanor count.
4. State probation or parole supervision fee (I.C. § 20-225) or work release reimbursement to county jails (I.C. § 20-614).
5. Restitution to crime victim. (I.C. § 19-5302).
6. Emergency surcharge fee (I.C. § 31-3201H): a fee of \$100.00 for each felony count, \$50.00 for each misdemeanor count, and \$10.00 for each infraction .
7. \$10.00 court technology fee. (I.C. § 31-3201(5))
8. Victim Notification Fund Fee (I.C. § 31-3204): \$15.00 for each felony and misdemeanor count.
9. Community service fee (I.C. § 31-3201C).
10. County misdemeanor probation supervision fee. (I.C. § 31-3201D)
11. Problem solving court fee. (I.C. § 31-3201E)

12. \$15.00 P.O.S.T. Academy fee. (I.C. § 31-3201B)
13. Domestic Violence Court fee. For persons who are found guilty of the offenses specified in I.C. § 32-1410, a \$30.00 fee to be deposited in the Statewide Drug Court, Mental Health Court and Family Court Services Fund.
14. Statutory reimbursement of public defender costs. (I.C. § 19-854(c))
15. Costs of prosecution ordered as condition of probation. (I.C. § 19-2601)
16. \$10.00 domestic violence fine. For persons who violate a domestic violence protective order (a misdemeanor), the first \$10.00 of the criminal fine is to be distributed to the domestic violence project account (I.C. § 39-5212), as provided in I.C. § 39-6312.
17. Criminal fine.
18. Presentence Investigation Fee (I.C. § 19-2516): In those cases in which a presentence investigation is ordered, an amount up to \$100.00 to be determined by the Department of Correction.
19. \$10.00 Drug Hotline Fee. For persons who violate the provisions of title 37, chapter 27, a \$10.00 fine to be deposited in the Drug Enforcement Donation Fund (I.C. § 57-816), as provided in I.C. § 37-2735A.
20. Additional \$7.50 fine for fish and game violations (I.C. § 36-1405), to be deposited to the search and rescue account (I.C. § 67-2913).
21. \$10.00 county administrative surcharge fee on each criminal case, \$5.00 on each infraction, for deposit to the county justice fund (I.C. § 31-4602), or to county current expense fund where no county justice fund has been established. (I.C. § 31-3201)
22. \$15.00 surcharge on DUI and DWP convictions or withheld judgments, for deposit in the court interlock device and electronic monitoring device fund. (I.C. § 18-8010)
23. For convictions or withheld judgments for violations of title 37, chapter 27, or for racketeering (I.C. § 18-7804) or money laundering (I.C. § 18-8201), restitution pursuant to court order for law enforcement costs incurred. (I.C. § 37-2732(k))
24. Restitution of no less than \$50.00 for the repair or replacement of simulated wildlife, to be paid by persons pleading or found guilty of attempting to take simulated wildlife. (I.C. § 36-1101(b)(7))

25. \$150.00 Abandoned Vehicle Fee for infractions in violation of I.C. § 49-1802, to be transmitted to the Abandoned Vehicle Trust Account created by I.C. § 49-1818. (I.C. § 31-3201F)

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, February 15, 2016

SUBJECT	DESCRIPTION	PRESENTER
<u>H 461</u>	Surcharge Fee	Judge Barry Wood, Idaho Supreme Court
<u>RS24430</u>	Probate code, minor claim	Judge Barry Wood, Idaho Supreme Court
<u>RS24481</u>	No contact orders	Michael Henderson, Idaho Supreme Court
<u>RS24259C1</u>	Alcoholic beverages, minor/medical emergency	Rep. Troy
<u>RS24517</u>	Sex exploit child, electronic means	Rep. Chaney
<u>RS24263</u>	Trust deeds, trustees	Rep. Malek
<u>H 439</u>	Appellate pub defender/appeals	Rep. Perry
<u>RS24508</u>	Public Defense	Rep. Perry
<u>RS24445</u>	Pardons and parole committee / rule reject	Rep. Dayley
<u>RS24512</u>	Rule rejection, Idaho state police	Rep. Dayley
<u>RS24183C1</u>	Public servants, pecuniary benefits	Rep. Nate
<u>RS24524</u>	Rape Kits	Rep. Wintrow
<u>RS24455C1</u>	Bail enforcement agents, requirements	Rep. Wills

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, February 15, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Carlie Foster, Lobby Idaho; Donna Looze, AAUW; Judge Barry Wood, ISC; Holly Koole Rebholtz, IPAA; Kathy Griesmyer, ACLU Idaho; Trent Wright, Idaho Bankers.

Chairman Wills called the meeting to order at 1:30 PM.

H 461: **Judge Barry Wood** presented **H 461**. The issue has come about following the economic recession of 2009 and 2010 when \$4.2 million was taken from the Court's General Fund appropriation. As a result, many expenses and positions were transferred over time to the Drug Court Fund. This shift of personnel and operation expenses was supposed to be offset with the emergency surcharge passed by the legislature in 2010. The projected revenues did not materialize. This piece of legislation is a integral part of the solution and seeks to redirect 80% of the surcharge monies currently being deposited into the Drug Court Fund, to the General Fund. The Joint Appropriations and Finance Committee will consider legislation proposed as a General Fund appropriation which would put the other court services part of the Drug Court Fund back into the General Fund. This bill would serve as a partial off-set of the proposed General Fund appropriation.

MOTION: **Rep. Nye** made a motion to send **H 461** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Dayley** will sponsor the bill on the floor.

RS 24430: **Judge Barry Wood** presented **RS 24430**. This proposed legislation is recommend by the Supreme Court's guardianship and conservatorship committee. The purpose is to improve the statute regarding minor's compromise. This is a situation where a minor brings an action for the recovery of damages, a settlement offer is made and must be accepted by an adult on behalf of the minor. In the case a parent is unable to do so, the current language does not allow for the decision to be made by a conservator or guardian. Additionally, the Courts may need the prerogative to pass over the adult who by statute is first in line, and give the decision making authority to a different authority figure in the best interest of the child. This legislation provides the priority order for who has the decision making authority, as well as clear stipulations for passing over an authority figure with a higher priority. The Courts can only pass over the parents if they find the parent could not act reasonably and in the best interest of the child. Guidelines are established to determine if the compromise is in the best interest for the child.

MOTION: **Rep. Dayley** made a motion to introduce **RS 24430**. **Motion carried by voice vote.**

- RS 24259C1:** **Rep. Troy** presented **RS 24259C1**. This legislation is designed to remove some of the barriers for those who are under age and have over consumed alcohol, to seek emergency medical assistance. There have been instances where minors have died because medical assistance was not sought due to fear of being arrested. This legislation provides limited use immunity for the individual in need of medical assistance or the individual who sought emergency medical assistance for the individual in need. This immunity depends on the individual who sought the help or the person in need of help remaining on the scene until medical assistance or law enforcement arrive. The Idaho Prosecuting Attorneys Association and law enforcement have requested language be added stating the immunity hinges on the cooperation of the individual.
- Nate Fisher**, Student Association, University of Idaho, clarified the requested language would be added as new subsection C and would state, "Cooperates with emergency medical assistance and law enforcement personnel at the scene."
- MOTION:** **Rep. Malek** made a motion to introduce **RS 24259C1**, with the amended language in new subsection C, "Cooperates with emergency medical assistance and law enforcement personnel at the scene." **Motion carried by voice vote.**
- RS 24263:** **Rep. Malek** presented **RS 24263**. This legislation seeks to amend the definition of "trustee". In 2015, **S 1135** made changes, but litigation in the interim confused the definition of "owner" or "repeated owner" when there is a conflict between the rightful claimant in a mechanics lien and the sale, when there is the sale of a deed. This minor change eliminates the issue subject to litigation.
- MOTION:** **Rep. Gannon** made a motion to introduce **RS 24263**. **Motion carried by voice vote.**
- H 439:** **Rep. Perry** presented **H 439**. This bill simply clarifies the role of the State Appellate Public Defender's Office (SAPD). Historically the office has always dealt with felony appeals. There was some question as to whether SAPD had the right to handle all appeals, or just certain appeals. The Supreme Court ruled the SAPD would handle all felony appeals. SAPD will handle interlocutory appeals from the District Court where the interlocutory appeal was filed as of the date the SAPD began. This bill clarifies regardless of denial of a post conviction relief or denial of a habeas corpus proceeding, it doesn't matter whether it was denied or granted it only matters that an appeal is in process.
- MOTION:** **Rep. Nate** made a motion to send **H 439** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Perry** will sponsor the bill on the floor.
- RS 24508:** **Rep. Perry** presented **RS 24508**. This legislation is a product of the Public Defense Reform Interim Committee. There have been no significant changes to Idaho's indigent defense delivery system and standards since 1967. The focus of the Public Defense Reform Interim Committee is to deliver a constitutionally sufficient delivery system. This legislation expands the scope of the public defense system and requires the Public Defense Commission to promulgate rules which will create the standards by which everyone should abide. It implements a grant mechanism based on those standards, as well as continues statewide trainings, and requires review for compliance issues.
- In response to a question from the committee about penalties for avoiding the economic disincentives or incentives, **Rep. Luker** explained there are broad, guiding principles before you get to the standards.
- MOTION:** **Rep. Trujillo** made a motion to introduce **RS 24508**. **Motion carried by voice vote.**

RS 24517: **Rep. Chaney** presented **RS 24517**. This legislation addresses an activity known as sexting. Current law considers taking a picture of oneself and sending it, as a minor, to be production and distribution of child pornography. This act falls under a felony statute, and there is the possibility the minor would be required to file as a sex offender. This legislation in no way condones the practice of sexting, but kids who make poor decisions with their cell phones do not need to be labeled as sex offenders, especially when it is self made and self distributed content. This is a life or death situation for kids who can be manipulated with the content after it has been sent. The current law considers the sender and the manipulator equally.

MOTION: **Rep. Kerby** made a motion to introduce **RS 24517**.

In response to a question from the committee, **Rep. Chaney** explained this legislation does include penalties for forwarding the content. This legislation considers it a misdemeanor for the person sending it and the person receiving it. It becomes a felony when the content is forwarded to additional parties. This legislation also contains a social media provision where an individual who places the content on social media gets one strike as a misdemeanor. Any additional posting is considered a felony due to the nature of social media and its widespread distribution.

VOTE ON MOTION: **Motion carried by voice vote.**

RS 24445: **Rep. Dayley** presented **RS 24445**. This legislation is the rejection of the rule change in IDAPA 50.01.01, the Idaho Commission of Pardons and Parole, Rules of the Commission of Pardons and Parole, Section 250, Subsection 05 which had sought to strike language pertaining to Institutional Parole. The committee rejected this portion of the rule change per the Commission's request.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 24445. Motion carried by voice vote.**

RS 24512 **Rep. Dayley** presented **RS 24512**. This legislation is the rejection of the entire rule making docket presented by Idaho State Police, IDAPA 11.05.01, Docket Number 11-0501-1401, Rules Governing Alcohol Beverage Control.

MOTION: **Rep. Gannon** made a motion to introduce **RS 24512. Motion carried by voice vote.**

RS 24183C1: **Rep. Nate** presented **RS 24183C1**. Under current law a public official may be offered and may accept a gift of any magnitude as long as there is no direct correlation between the gift and an official action. Proving a connection between a gift and an official action is nearly impossible, and the current law requires no accountability. This legislation would make it illegal for any government official or public servant to accept a gift from anyone conducting business or desiring to conduct business with the government. It would prohibit state legislators from accepting gifts over \$50, even if the gift is not directly connected to a specific vote or action. The bill would not impact de minimis gifts of \$50 or less, campaign donations, gifts received because of kinship, existing friendships or business connections. This legislation would protect both the giver and the recipient, and will improve Idaho Citizen's trust in public servants.

In response to questions from the committee, **Rep. Nate** clarified after a legislator's service with the legislature is complete, the legislator would not be prohibited from receiving gifts from anyone conducting business or desiring to conduct business with the government. Striking "officials concerned with government contracts and pecuniary transactions" and replacing it with "public servants" is necessary to change the title of that section and make it consistent with the rest of the section. This should clarify who is considered to be a public servant and is required to abide by this law. The intent of this legislation would be to apply this rule to all public servants, not just legislators. It is not known who would investigate any claims or how the process would be triggered. This law would likely be enforced by either the office of the Secretary of State or the Attorney General. The term "public servant" is already used in this section; however, it is not clear whether public servant has a definition in Idaho Code.

MOTION:

Rep. Malek made a motion to introduce **RS 24183C1**.

In response to questions from the committee, **Rep. Nate** explained due to the elimination of section d, lobbying has been added to the new section and falls under the \$50 limit. Educational trips and tours would be limited to \$50 a legislator. If the cost of an education trip or tour went over \$50 it could be recorded as a campaign contribution or if the legislator were to record the trip as the campaign expense. Trips presented by a 501(c)(3), like the North Idaho Tour, would be permissible if the expenses were delineated as a campaign contribution or if the legislator were to record the trip as the campaign expense. Trips, like the North Idaho Tour and South Idaho Tour, result in giving a disproportionate voice to that area of the state.

SUBSTITUTE MOTION:

Rep. Nye made a motion to return **RS 24183C1** to the sponsor.

VOTE ON SUBSTITUTE MOTION:

Roll call vote was requested. **Motion failed by a vote of 7 AYE, 10 NAY. Voting in favor of the motion: Reps. Dayley, McMillan, Perry, Trujillo, Kerby, McCrostie, Nye. Voting in opposition to the motion: Reps. Luker, Sims, Malek, McDonald, Cheatham, Nate, Scott, Gannon, Wintrow, Chairman Wills.**

VOTE ON ORIGINAL MOTION:

Motion carried by voice vote. Reps. Trujillo and McCrostie requested to be recorded as voting **NAY**.

RS 24524:

Rep. Wintrow presented **RS 24524**. The purpose of this legislation is to create and codify systems used by law enforcement, health care facilities and the Idaho State Police Forensic Lab in the processing of a sexual assault evidence kits. It creates a system for tracking and reporting, and requires an annual audit with the findings reported to the legislature on an annual basis. This legislation would provide a consistent process for all involved. Idaho has received federal funding they have used to address the backlog of kits and this legislation would provide a mechanism to prevent future backlogs.

In response to questions from the committee, **Rep. Wintrow** said the fiscal note is based off of the personnel required to meet the 30 day time line. This includes two forensic scientists and a person to track the kits.

MOTION:

Rep. McCrostie made a motion to introduce **RS 24524**.

In response to questions from the committee, **Rep. Wintrow** explained there is currently no tracking mechanism in place and the proposal is to place a serial number on each kit. Idaho State Police Forensic Laboratory would be given statutory authority to track the kits and create the system to track them. The kit does expire. The chain of evidence is determined by current law enforcement procedures. Once the crime lab has processed the kit, it is returned to the law enforcement officer for the remainder of the investigation. It is unclear whether the thirty day time line could be used to undermine the prosecution if the time frame is not met.

**VOTE ON
MOTION:**

Motion carried by voice vote.

RS 24481:

Michael Henderson, Legal Counsel, ISC, presented **RS 24481**. The courts are required to include a distance restriction with every no contact order they issue. Because contact is not defined in statute it is not clear whether a violation of the distance restriction is a violation of the no contact order. The purpose of this legislation is to clarify whether a violation of a distance restriction constitutes "contact". It also seeks to consider engaging in violent or threatening acts against the person listed or their family, contact or communication in person, in writing, electronically, or through a third person, as violations of a no contact order. The court may issue a distance restriction not to exceed 1,500 feet of the person or places they frequent.

In response to questions from the committee, **Mr. Henderson** explained the maximum distance of 1,500 feet is used here because the same amount is used in the civil protection order statute. The person would have had to knowingly violate the distance in order to be charged with a violation. The Supreme Court has taken on this issue due to judges expressing concern about the current distance requirement not being enforceable because violation of a distance restriction is not defined as contact.

In response to a question from the committee, **Mr. Henderson** explained the actions listed in this legislation are intended to cover what are clear, known violations of no contact. Violations of distance restrictions only become a factor in no contact orders once State v. Herren was decided.

MOTION:

Rep. Malek made a motion to return **RS 24481** to the sponsor. **Motion carried by voice vote.**

Chairman Wills turned the gavel over to **Vice Chairman Dayley**.

RS 24455C1:

Rep. Wills presented **RS 24455C1**. The purpose of this legislation is to provide clear rules and guidelines for out of state bail agents making arrests in Idaho as well as to make it clear bail enforcement agents are not law enforcement officers. This legislation outlines the requirements to become a bail enforcement agent, including the requirement for an Idaho Enhanced Concealed Carry License in order to carry concealed. Guidelines for badges and outer garments are also established.

MOTION:

Rep. Trujillo made a motion to introduce **RS 24455C1**.

In response to questions from the committee, **Rep. Wills**, explained the current definition of a bail enforcement agent in Idaho Code does not provide a clear definition or requirement for becoming and identifying oneself as a bail enforcement agent.

**VOTE ON
MOTION:**

Motion carried by voice vote.

Vice Chairman Dayley turned the gavel over to **Chairman Wills**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:10 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Wednesday, February 17, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 491	Lien / nonconsensual common law lien	Rep. Kerby
H 492	Staff attorneys / appointments, salaries	Rep. Perry
H 493	Fines, fund deposits	Rep. Perry
H 495	Alcohol violation, expunged / sealed	Rep. Gannon
RS24259C2	Alcoholic bevs, minor/med emergency	Nate Fisher

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, February 17, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Chris Rich, Ada County Clerk; Lani Wright, Ada County Clerk; Giovanna McLaughlin, Ada County Clerk; Stephen Adams, Ada County Clerk; Barry Wood, ISC; Andrea Patterson, ISC; Kerry Hong, ISC; Michael Mehall, Self; Daniel Chadwick, IAC; Stacy Pittman, Self; Mason Shipley, Self; Dan Blocksom, IAC; Elisha Figueroa, ODP.

Vice Chairman Dayley called the meeting to order at 1:33 PM.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 9, 2016, meeting. **Motion carried by voice vote.**

RS 24259C2: **Nate Fisher**, Student Association, University of Idaho, presented **RS 24259C2**. This legislation now includes the requested language in subsection C and states, "Cooperates with emergency medical assistance and law enforcement personnel at the scene." The intent of this legislation is to remove repercussions associated with underage drinking when there is a need for emergency medical services.

In response to a question from the committee, **Mr. Fisher** explained in a situation where someone has overimbibed and there is fear of alcohol poisoning it is important for someone to stay on scene who can cooperate and provide information to law enforcement and medical personnel about what and how much was ingested. Cooperation is not fully defined. Some of the states who have adopted legislation for immunity in these circumstances have also added the cooperation language and have not had any issues arise after doing so. The immunity provided by this legislation does not cover anything outside of a minor in consumption of alcohol or minor in possession of alcohol. Minors would not have immunity from any other illegal activities they were engaged in.

MOTION: **Rep. Perry** made a motion to introduce **RS 24259C2**. **Motion carried by voice vote.**

H 492: **Rep. Perry** presented **H 492** which creates a new section of code to reflect a monetary move of staff attorneys, often called law clerks, from the responsibility of the counties to the supreme court. These law clerks work for and are accountable to the judges, not to the counties, even though the counties pay their wages. Counties have been reporting most counties have reached the maximum amount of their Justice Levy Fund and have made requests to have the levy amount raised. The Public Defense Interim Committee discussed this issue and had reason to believe the plight of the Justice Fund Levy was directly related to the delivery of public defense, because the majority of public defense funding comes from the Justice Levy Fund. This legislation is a result of their discussion, however the Public Defense Interim Committee does not have the authority to weigh in on this issue and this legislation is not under the official recommendation of the committee. This

change is sanctioned by the counties and the courts and will result in approximately \$3.9 million becoming available again in county budgets.

In response to questions from the committee, **Daniel Chadwick**, Executive Director, IAC, explained the Justice Fund Levy is used for the courts and all law enforcement functions of a county. Not all counties have a Justice Fund Levy, some rely solely on the current expense fund. The Justice Fund Levy was created as an attempt to give the counties flexibility. Nineteen counties have met their maximum amount in their Justice Fund Levy and need monies freed up to continue to cover necessary expenses for their law enforcement functions, including jails, law enforcement, sheriffs, and public defenders. The \$3.9 million made available by transferring law clerks to the supreme court, would not be proportionally dispersed among the counties. Thus the monies made available could not be used to cover the amount requested for public defender services. Some law clerks salaries are capped in their county salary system, by placing these employees under the care of the courts they will receive more stability and a better defined salary.

In response to a question from the committee, **Rep. Perry** explained with the passage of this bill it will get a placeholder in JFAC, and they will determine how the money will be appropriated.

In response to a question from the committee, **Mr. Chadwick** explained similar to the state, the counties have received a considerable reduction in the amount of \$18 million to \$22 million. However, the counties have a separate levy for indigent services and it is not impacted by what this legislation does. The amount saved by the counties is difficult to determine due to the fluctuation of the number of claims they pay in a year, which is twice the number of claims the state pays.

In response to a question from the committee, **Rep. Perry** explained there is approximately \$20,000 pay difference across the state for law clerks.

Steven Adams, Ada County Clerk, testified **in opposition** to **H 492**. As a law clerk he is opposed to this transfer and would prefer to remain employed by the county. He believes Ada County can provide better benefits, and he has less of a chance of being furloughed as a county employee. He is concerned about how his relationship with county employees, the use of county supplies and technical support will change by becoming a employee of the state.

In the fourth judicial district there is a law clerk who is not attached to a district judge and serves the senior judges. This bill implies there is one staff attorney per district judge, so this position may be eliminated because it is not attached to a district judge. Language was suggested to clarify counties would not be prohibited from hiring additional staff attorneys as needed. As well as language stating staff attorneys would not being required to be licensed in Idaho, considering many staff attorneys are licensed in other states, or be licensed at all, since some staff attorneys have graduated from law school but have not yet received confirmation they have passed the bar. Language was requested specifically stating the salary of district staff attorneys would not be less than the salary of the staff attorneys serving the Idaho Court of Appeals and the Idaho Supreme Court. This is important because salaries for staff attorneys vary across the state and staff attorneys at various counties often have a higher case load than staff attorneys at the appellate level who make more money. He is concerned about the transfer of his accrued vacation time and sick time as well as his PERSI vesting and benefits.

There is the possibility this bill and Idaho Supreme Court policies could limit staff attorneys to being term staff attorneys, he is opposed to limiting a judge's ability to hire and keep a staff attorney as long as they wish. This statute would be better suited in a different section of code.

In response to questions from the committee, **Mr. Adams** explained the concern over term staff attorneys stems from current Supreme Court practices of hiring term staff attorneys. He is not familiar with how a district judge requests their supplies, only that it is different from his request through the Trial Court Administrator. On average, Ada County will have three or four staff attorneys waiting on bar exam results.

Daniel Chadwick, Executive Director, IAC, testified in support of **H 492** which resolves a long standing issue between judges and county commissioners by placing these positions in the hands of the court.

In response to a question from the committee, **Andrea Patterson**, Human Resource Director, Idaho Courts, explained the Supreme Court would work with each staff attorney to ensure there is no lapse between when their county health insurance ends and their state health insurance policy begins. If the county is a member of PERSI, retirement benefits would be seamless. When an individual separates from county employment typically any accrued vacation is paid out. The legislature has set in place certain vacation accruals for state employees and the Idaho Supreme Court has replicated that practice for employees of the judicial branch. The courts must look at their internal equity before promising to match accrued time but would seek to be as flexible and fare with the transfer of accrual time as they are allowed to be. It is not the supreme court's policy to allow an employee to buy vacation time but they would work with each employee to determine how to best meet their vacation time needs.

In response to questions from the committee, **Judge Barry Wood** explained the appropriation for this transfer was not included in the court's budget submitted to the Governor's Office on November 1, 2015. This transfer has been discussed for the last fifteen years and the courts have always contended if the legislature chose to transfer the staff attorneys, the courts would gladly accept the employees and administer the program. Most staff attorneys are one year clerks, some are two year clerks and a very small number are long term law clerks. The bill's definition of staff attorney would not be in conflict with the Supreme Court's definition of law clerks. The statute does not mention a requirement to be licensed in order to be a staff attorney, the common understanding is the person applying has graduated from a law school and is either licensed to practice law or is pursuing the license to practice.

In response to a question from the committee, **Ms. Patterson**, explained historically when the legislature has written laws regarding state employee classification, compensation, treatment for vacation or other aspects, there has always been a caveat stating the supreme court may establish its own system of classification and compensation as a separate branch of government. A key difference in the judicial branch under the supreme court, is all employees are at will. The law clerks who will be transferred as a result of passage of this bill, currently serve at the will of their supervising district judge and this would not change once they are transferred. The Idaho Supreme Court has a compensation system for appellate law clerks and those figures are made public. Nationally, appellate law clerks make more than trial court law clerks, so she would not support language requiring all law clerks to receive the same compensation. Within the same judicial district, there can be a variation in compensation by as much as \$19,000. This transfer would allow all law clerks in their first year of clerking to receive equal pay. An Ada County law clerk salary is \$54,825, the Idaho Supreme Court beginning appellate salary is \$54,450, the Supreme Court would not ask someone transferring from any county where they receive a higher salary, to take a pay cut.

MOTION: **Rep. Nye** made a motion to send **H 492** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Perry** will sponsor the bill on the floor.

H 493: **Rep. Perry** presented **H 493** which seeks to redistribute a percentage of fines from State Motor Vehicle Laws and DUIs and develop a dedicated funding stream for the Drug Court, Mental Health Court, Family Services Court Fund. Presently 22.5% of these fines are deposited into the Public School Income Fund while all other funds are distributed to the courts and transportation systems. Reallocate 11.25% of the 22.5% going to the Public School Income Fund to the Drug Court, Mental Health Court, Family Services Court Fund. This allocation has not been revised since 1971. Shifts in policy, practice and priority make it clear a better funding stream is needed for Speciality Courts. This new funding stream would allow for specialty courts to be established in counties desiring to have Specialty Courts.

In response to questions from the committee, **Judge Wood** explained the difference between **H 461** which was designed to fix the structural funding issue in the Drug Court Fund because of the "other court services" line in the fund and **H 493** which is intended to put more money into the problem solving courts. The funding issue **H 461** is designed to fix, is due to expenses required to be paid out of the Drug Court Fund exceeding the income to the fund. To fix the issue, **H 461** will move any non-drug court related monies out of the "other court services" line, back to the general fund where it was prior to being moved in 2009. Then **H 461** will redirect the surcharge money to offset that change. That effect to the General Fund is projected to be \$854,000. This method is preferred by JFAC and it is believed to be a more long term solution.

Vice Chairman Dayley turned the gavel over to **Chairman Wills**.

In response to a question from the committee, **Rep. Perry** explained although she would prefer to reallocate the full 22.5%, the reason for reallocating only 11.25% is to create the dedicated funding stream, allow it to be in place and begin working. Once this is completed the problem solving courts can be reviewed to determine if the other 11.25%, or a portion of it, is needed to continue the work of the problem solving courts.

MOTION: **Rep. Malek** made a motion to send **H 493** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. McCrostie, Gannon and Luker** requested to be recorded as voting **NAY.** **Rep. Perry** will sponsor the bill on the floor.

H 495: **Rep. Gannon** presented **H 495** which doesn't change present law or present penalty. Minor in Consumption would remain a misdemeanor and a violator still faces a fine, appearing before the judge and the present penalties as they would apply. What this bill does is provide an incentive to stay out of trouble and if they do so for five years with no drug or alcohol related convictions the violator can have the guilty plea vacated and the matter sealed.

MOTION: **Rep. McDonald** made a motion to send **H 495** to the floor with a **DO PASS** recommendation.

Mason Shipley, testified in support of **H 495**. He appreciates the opportunity to have a conviction sealed and believes it will assist young people whose futures may be affected by poor decisions made at a young age.

VOTE ON MOTION: **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

H 491:

Rep. Kerby presented **H 491** which prohibits the use of non-consensual common law liens, and implements a penalty for anyone attempting to do so. Non-consensual common law liens are different from a lien which can be placed on the home because an individual who owes money, because they do not require notice to be given to the home owner. The individual placing a non-consensual common law lien on a residence is not required to have or list a reason for doing so. This legislation provides instruction for reversing a non-consensual common law lien if it has been placed on an individual's home. An amendment has been requested to clarify the filing fee for a petition to release shall be \$35, and clarifies the language regarding the releasing of such liens.

In response to questions from the committee, **Rep. Luker** explained the \$35 filing fee is the current filing fee to remove the lien. Filing to remove the lien requires a court order and State time to do so.

Chris Rich, Ada County Clerk, testified in support of **H 491**. He explained the ramifications of the current language which states "an order striking and releasing the claim". In Ada County and thirty four other counties, everything is processed electronically. At the end of each day, three title plants will extract from the county's portal all land record transaction documents imaged that day. An index is populated and the images are resold to other title companies. This is done so when a property search is conducted it is easy to determine the history of the property and if there are any liens against it. An avenue often suggested to remove a non-consensual common law lien has been to expunge (or strike) the lien from the record. However, all this accomplishes is removing the image from Ada County's database and does not update the title companies who also have copies. A better solution is to file a release of lien which allows these title companies to reconcile the lien and it's removal from the property. This is the solution proposed in the amendment.

MOTION:

Rep. Luker made a motion to send **H 491** to General Orders with amendments attached.

Stacy Pittman, testified in support of **H 491**. She provided information about her experience when a non-consensual common law lien was filed against each attorney in the firm and against the firm, when a defendant did not like the outcome of a judgment. Ms. Pittman's office was contacted by an individual in the Secretary of State's office and alerted to the possibility of a frivolous lien. Removing the lien was an extensive process. She was required to file a civil court case and the filing fee was \$220. To file the lien cost \$3 but to acquire a certified copy was \$5. Statute provided for a \$5,000 fine per violation. It took approximately seven months to go to court, the defendant did not appear and the judge removed the liens by court order. The judge awarded \$5,000 per violation which will never be collected.

Michael Mehall, testified on **H 491**. He provided information about his experience as a victim of a frivolous non-consensual common law lien. When he sought to refinance his home, it was revealed three liens amounting to \$3.5 million had been placed against his home. The liens were filed by a trust as an attempt by the individual to shield herself against liability. Previously Mr. Mehall's firm had attempted to collect on a debt the woman owed. Mr. Mehall retained a lawyer since the liens were valid under common law. The individual sought a pay off in return for dropping the suit. The Sheriff's office began investigating, and at that same time another group informed him they had retained the right to the \$3.5 million lien but if he placed money in an escrow account the liens would be dropped. The individual was eventually charged with a felony and arrested, she later plead guilty to a misdemeanor. Mr. Mehall was able to recover his attorney's fees and lost funds through restitution. Mr. Mehall must still sue in civil court in order to have the liens removed.

**VOTE ON
MOTION:**

Motion carried by voice vote. Rep. Kerby will sponsor the bill on the floor.

Chairman Wills thanked **Chantel Wills** for her service as a page.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:50 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, February 23, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 503	Trust deeds, trustees	Rep. Malek
HCR 39	Pardons and parole commission / rule reject	Rep. Dayley
HCR 40	Rule rejection, Idaho state police	Rep. Dayley
H 494	Alcohol, age infractions	Rep. Luker
	IDOC Update	Director Kempf, IDOC

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, February 23, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Kevin Kempf, IDOC; Josh Tewalt, IDOC; Kathy Griesmyer, ACLU Idaho.

Chairman Wills called the meeting to order at 1:30 PM.

H 503: **Rep. Malek** presented **H 503** which pertains to trust deeds and trustees. This bill repairs the statute pertaining to trustees for the purpose of sale of property. The intent is to create uniformity between trustees and a mechanics lien, and to revise issues raised by the title industry.

MOTION: **Rep. Trujillo** made a motion to send **H 503** with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Malek** will sponsor the bill on the floor.

**HCR 39
HCR 40:** **Rep. Dayley** presented **HCR 39** which is the rejection of the rule change in IDAPA 50.01.01, the Idaho Commission of Pardons and Parole, Rules of the Commission of Pardons and Parole, **Docket No. 50-0101-1501**, Section 250, Subsection 05, and **HCR 40** which is the rejection of the entire rule making docket presented by Idaho State Police, IDAPA 11.05.01, **Docket No. 11-0501-1401**, Rules Governing Alcohol Beverage Control.

MOTION: **Rep. Luker** made a motion to send **HCR 39** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Dayley** will sponsor the bill on the floor.

MOTION: **Rep. Gannon** made a motion to send **HCR 40** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Wintrow** requested to be recorded as voting **NAY. Rep. Dayley** will sponsor the bill on the floor.

H 494: **Rep. Luker** presented **H 494** which reclassifies first offenses for under age consumption or possession of alcohol from a low level misdemeanor to an infraction. This concept was recommended by the Criminal Justice Commission to better align punishment with crime and to save public defense costs. Penalties for a violation have been revised due to the new classification. This would be a status offense which means juvenile corrections can have supervision if needed, and an officer may contact a parent to notify them. The fees are being maintained as though they were from a misdemeanor, meaning the juvenile would pay the same amount in fees.

In response to a question from the committee, **Rep. Luker** explained even though a second offense is a first time misdemeanor under this bill, there is no conflict with the language found in **H 495** which allows for a first time misdemeanor to be removed after five years if there are no additional convictions.

Rep. Gannon clarified **H 495** does not use the term misdemeanor or infraction. It is based on a finding of guilt in a particular section. If the section is reclassified as an infraction, the infraction is what would be removed under **H 495**.

Kathy Griesmyer, Public Policy Strategist, ACLU of Idaho, testified **in support of H 494**. This reclassification is common sense sentencing reform and would strike a balance for how to appropriately deal with offenses not meriting detention of a juvenile and/or minors.

In response to a question from the committee, **Rep. Luker** explained by changing misdemeanor to infraction the offender would retain the right to a trial but not to a jury trial.

MOTION: **Rep. Trujillo** made a motion to send **H 494** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 17, 2016, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 15, 2016, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the February 11, 2016, meeting. **Motion carried by voice vote.**

Director Kevin Kempf presented an IDOC update. All the requirements listed in **S 1357** (2014), the Justice Reinvestment Initiative, were met by the October 2015 deadline. The Limited Supervision Unit which allows lower risk offenders to be placed on a secure portal and submit their reports, has had significant enhancements. In the last six months the overall population has declined by approximately 400 inmates, the majority of which were property or drug crime offenders. Because of this reduction in population, every inmate currently held in a private prison in Colorado will be returned to Idaho. IDOC will be reverting \$1.8 million to the General Fund. As a result of **S 1357** (2014) over \$100,000 has been returned to the Victim Compensation Fund.

In March 2015, IDOC requested information from the Council of State Government regarding work they had previously conducted in Idaho. The request was to determine whether there was anything in the system the Council had noted as problematic but had not brought to IDOC's attention as of first importance. The Council had noted treatment programs in the prisons did not have reasonable evidence of effectiveness. A Justice Program Assessment was requested by IDOC and provided free of charge due to Idaho being a Justice Reinvestment State. After a complete review it was determined 9 of the 12 programs lacked evidence of effectiveness. It was also determined the Pathways to Parole were complex and confusing for inmates, their families and staff. It was determined the appropriate course of action was to reduce the number of programs from 12 to 5. IDOC will implement the Cincinnati model of Substance Abuse treatment and will enhance their sex offender treatment program, anger replacement training and advance skills practice. Each of these programs are researched based, universal and public domain systems which will result in significant cost savings. Restrictive housing reform is also in progress and two teams are actively working on solutions. Both of the teams include a member of the ACLU and the Federal Defenders of Idaho. All facilities have 24/7 access which has improved IDOC's partnership with Idaho's universities and relationships with Idaho's media and groups which have traditionally stood opposite of IDOC. (See Attachment 1).

In response to questions from the committee, **Mr. Kempf** explained it is important to note the highest recidivists are property and drug crime offenders. Parole officers are working hard to keep up with the decline in the prisons because these inmates who have been transferred out of prison are moving into parole. They are able to utilize e-mail to keep inmates up to date and receive real time information about changes and updates in programs. Removing the requirements for certain unnecessary programs and making the programs universal will remove the bottle neck of inmates waiting to get into the programs, which often was the only thing standing between them and release.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:36 PM.

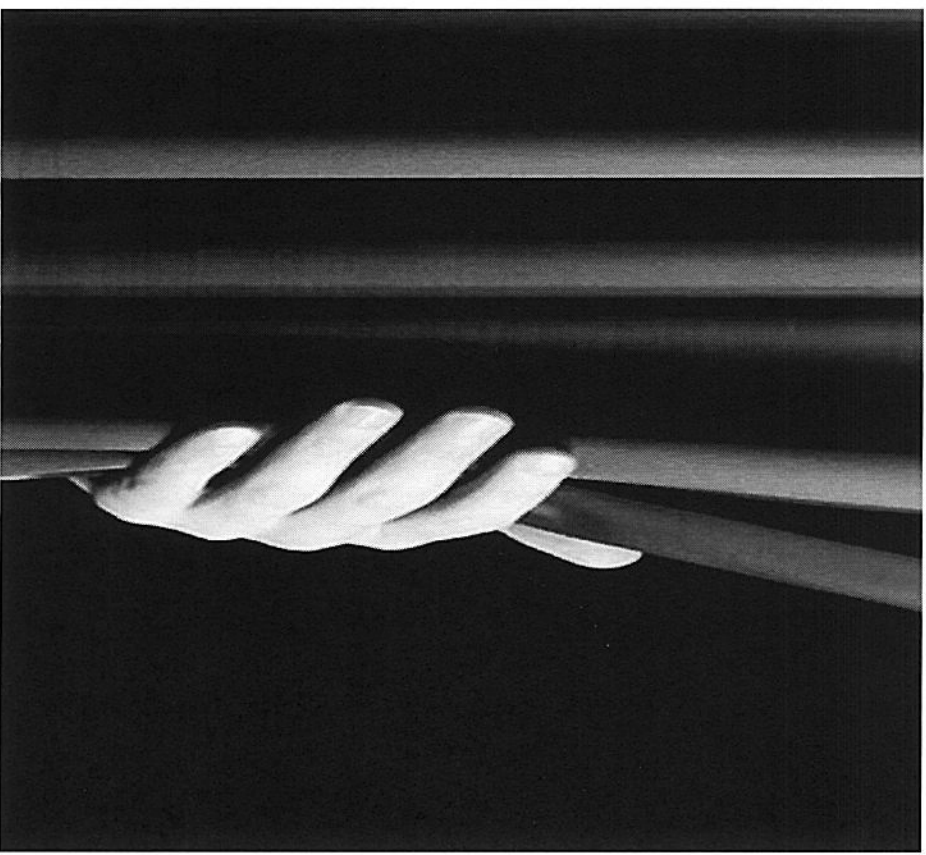
Representative Wills
Chair

Katie Butcher
Secretary

By: Kevin Kempf

2016 Legislative Update Idaho Department of Correction

Reform / Transparency



Justice Reinvestment

All SB1357 Requirements met.

Limited Supervision Unit increase of 1,000 offenders.

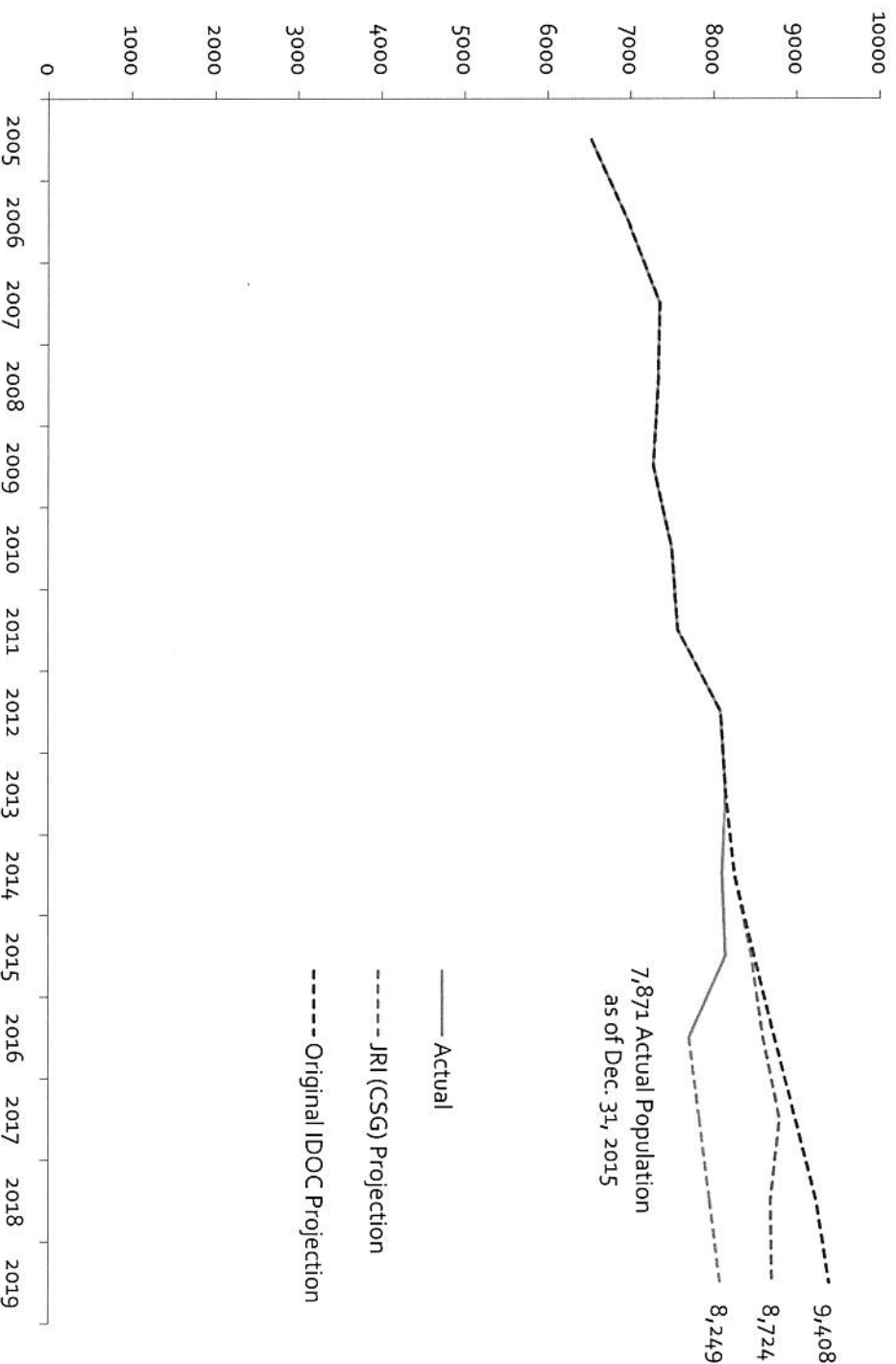
Out-of-State inmates returning.

Returning over 1m to general fund this year.



IF YOU
CHANGE
NOTHING,
NOTHING WILL
CHANGE.

Justice Reinvestment Projections



3.5% drop in prison population compared to baseline of 8,160

Averted savings of \$14,937,959 from JRI projection and \$16,119,864 from IDOC projection based on bed savings of \$59.91 per day over 1.5 years.

If trend continues, will reach 8,249 by 2019, for a bed savings of \$67,635,095 JRI \$102,513,199 IDOC

Justice Program Assessment

Top to bottom assessment.

Findings:

9 out of 12 programs

Confusing/Complex

Therapeutic Communities



Justice Program Assessment

Discontinue Therapeutic Communities.

From 12 to 4 programs

Cincinnati Substance Abuse Program.

Sex offender program.

Thinking for a Change.

Anger Replacement Training.

Advance Skills Practice.



Restrictive Housing Reform

What we do today...

It doesn't work.

Public Safety.

Two planning teams.



Pulling back the curtains...

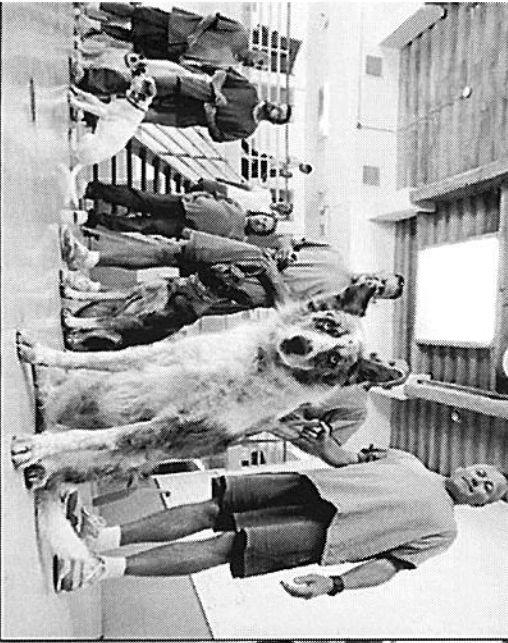
24/7 access to lawmakers.

Open to Universities.

Open to media.

Partnering with groups that we traditionally square off with.





AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, February 25, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 502	Probate code, minor claim	Michael Henderson, ISC
H 508	Bail enforcement agents, requirements	Roy Eiguren
H 504	Public defense	Rep. Perry
H 528	Sexual assault evidence kits/testing	Rep. Wintrow

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, February 25, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: The sign in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Wills called the meeting to order at 1:32 PM.

Chairman Wills introduced the new House Page, **Matthew Hacker**, a Idaho Virtual Academy senior from Potlatch.

MOTION: **Rep. Dayley** made a motion to **HOLD H 502** in committee. **Motion carried by voice vote.**

H 504: **Rep. Perry** presented **H 504**, which is the result of the Public Defense Reform Interim Committee. The committee's intent was to ensure constitutional defense in Idaho, ensure quality of service by setting standards and to maximize existing resources. The primary issues considered were administration, funding, oversight and enforcement.

Senator Lakey testified **in support** of **H 504**. Crafting of this bill began three years ago and has had input from judges, county commissioners, attorneys, public defenders and the courts. This legislation is important because it establishes the principles for indigent public defense in Idaho. These are the foundational principles the committee will move forward on during negotiated rule making to develop the more detailed and specific standards for provision of indigent services. This legislation is very valuable because it keeps implementation at the county level while simultaneously providing the methodology for the counties to fund the additional cost.

Darrell Bolz, Chair, State Public Defense Commission, testified **in support** of **H 504**. The Commission unanimously supports the legislation, but has the following concerns. Will the 4.5 FTE in the bill be enough to complete the requirements; whether the time lines are achievable, specifically the time lines for the grant awards; and whether the salary for the executive director is too low. This is a very positive step for Idaho and the Commission is dedicated to making it a success. (See Attachment 1)

Elisa Massoth, Vice President, Idaho Association of Criminal Defense Lawyers (IACDL), testified **in support** of **H 504**. This legislation is a step in the right direction for public defense reform in Idaho. IACDL supports adherence to the ABA standards, parity of funding with prosecution resources for the defense, and training for attorneys protecting the constitutional rights of the indigent.

Kimberly Simmons, IACDL Executive Board of Directors, testified in support of **H 504**. Most public defenders carry case loads double the American Bar Association's recommended 150 felony cases per year. It is imperative public defenders have the same resources as prosecutors, such as investigators, expert witnesses and other essentials for a complete and effective defense. Public defense reform and oversight should include a commission to set standards under which public defender offices should be created and maintained. There should be provision for sufficient time and space for attorneys to meet privately and confidentially with their clients, and a controlled work load in order to provide quality representation. Counsel should be matched with the complexity of a case based on their training and experience. This bill addresses these issues and is invaluable for public defense reform. It is a good step toward creating a balanced system.

In response to a question from the committee, **Ms. Simmons** explained this legislation would bring the case load for Idaho's public defenders closer to the recommended ABA case load of 150. Without this legislation they are at risk of the case load continuing to rise.

Robert White testified in support of **H 504**. He provided information about his experience with a public defender. In 2009 his daughter was raped and he reported the crime to the police and to health and welfare. No steps were taken, he chose to make a citizens arrest which was within his rights according to the laws of Idaho. Instead of making the arrest, he was arrested and charged with second degree kidnapping. He was assigned a public defender and he had a defense. However, he was told to plead guilty because of his race. He felt he had no help, and he plead guilty. His family urged him to change his plea and he contacted his public defender to make him aware Mr. White wished to withdraw his guilty plea. Upon doing so, his public defender withdrew from the case. He was assigned a conflict attorney who determined Mr. White was within his rights. A hearing was held so Mr. White could withdraw his guilty plea. His public defender admitted during this hearing he had encouraged Mr. White to plead guilty because of his race and he was unfamiliar with the statutes surround a citizens arrest. He believes this bill will help and hopes it will prevent more situations like his.

Dan Blocksom, Policy Analyst, Idaho Association of Counties (IAC), testified on **H 504**. The Counties neither support nor oppose the bill. IAC membership is split and they have some concerns centered around the standards. The Counties desire to provide constitutionally adequate defense but they are worried about the cost associated with the new standards and whether the county tax payers will be expected to carry the burden. They are concerned that even with the grants, there may not be enough funds for implementation. The Counties are committed to doing their best to implement whatever standards come forward. They will fully participate in the rule making and remain at the table to discuss future legislation that may become necessary.

Kathy Griesmyer, Public Policy Strategist, ACLU, testified in support of **H 504**. The ACLU support rests on the standards created by the Public Defense Commission, the established grant and the enforcement mechanism. The ACLU does have concern regarding the funding levels being enough to achieve compliance. This is an instrumental first step and they look forward to implementation and working through the rule making process.

Robin Crisler, ACLU, testified in support of **H 504**. He provided information about his experience with a public defender. Instead of going to court, he was pressured to take a plea bargain that was not in his best interest for the purpose of relieving the public defender's office of the burden of defending him. Without proper legal defense, many across the state are faced with the same situation.

Rep. Perry stated the sixth amendment has been overlooked in its importance.

In response to a question from the committee, **Rep. Perry** explained the \$4.2 million is set aside for grant applications. Grant applications are a means for the county to determine what standards they are not meeting. The county will review its public defense and request a grant for the areas they need to improve in order to meet the standards. The grant can be as much as 15% of the local share or \$25,000, whichever is greater. Money has also been set aside for extenuating circumstances and anomalies. The Counties are encouraged to pool their resources. If the county is not able to meet the parameters for case load they would use a grant application to request additional attorneys.

MOTION:

Rep. Trujillo made a motion to send **H 504** to the floor with a **DO PASS** recommendation.

Rep. Luker stated his support of **H 504**. The Counties case load is driven by the prosecution, this is one of the reasons it is imperative the Counties maintain control and are required to set their budget based off of their case load. One of the first considerations the State Public Defense Commission will consider is work load verses case load, and the grants are designed to address this concern. The grant process is flexible so each county may request support based on their individual deficiencies. Consolidating counties is an exciting aspect and is proven to provide more consistency. The State will ask for compliance and if a county does not comply with the standards despite multiple attempts by the State to do so, the cost will revert back to the counties.

In response to a question from the committee, **Rep. Perry** explained in regard to concern over additional costs being bourn by the counties, the cost for each county is based on how far out of compliance they are with the standards. The standards will roll out slowly allowing the counties time to comply and adjust. The state has already appropriated funds to help with the known immediate cost increase for the counties. The commission will return in three years and review which counties have merged and how the funds are being used. The State Public Defense Commission has committed to negotiated rule making throughout the entire process and will not adopt temporary rules.

In response to a question from the committee, **Rep. Perry** stated the national average for plea bargains is 95% of cases, and this is the same in Canyon County. It is important to determine and understand the reason for such a high percentage. The percentage is concerning especially because plea bargains never require proof of guilt and are not a declaration of innocence.

**VOTE ON
MOTION:**

Motion carried by voice vote. Rep. Perry will sponsor the bill on the floor.

H 508:

Roy Eiguren, presented **H 508**. This bill provides the basic requirements to regulate bounty hunters in Idaho. The only requirement in Idaho Code to be a bail agent, is to have an approved affidavit from the Supreme Court authorizing them to arrest. It is not the intent of this legislation to require licensing for bail agents. A incident in Bonneville County prompted this legislation. In this incident the bounty hunters represented themselves as law enforcement officers, wore badges but did not show any form of identification that was visible to law enforcement officers, and lacked training in the basic use of firearms. This bill establishes a definition for the term "Bail Enforcement Agent" and establishes requirements to be an agent.

In response to a question from the committee, **Mr. Eiguren** explained the rationale behind requiring the agent to obtain a Idaho enhanced concealed carry licence, regardless of their desire to carry concealed, is because it requires a background check and is preferred to requiring the agents be licensed. There are more than 300 agents licensed by the Idaho Department of Insurance. Agents from out of state can operate in Idaho and they would need to meet Idaho's requirements in order to operate in state.

John Robles, owner of Idaho Fugitive Investigations LLC, testified **in opposition** to **H 508**. Guidelines are long overdue, but this bill is premature and much more is needed to reform the statute. The agents he works with have received extensive training, and the incident prompting this bill are rare. He opposes any controls that undermine the professionalism of bail enforcement agents. He believes the bill should include standardized testing, a universally recognized badge, background checks, training, biyearly certification, credentials and fees.

In response to a question from the committee, **Mr. Robles** explained most of his agents have a basic Idaho ccw, not the enhanced ccw. Although there has only been one incident, it was clear the agents who were a part of the incident needed more training and this may be prevented in the future if agents were required to be trained.

Jarin Liscinski, Beneficial Bail Bonds testified **in opposition** to **H 508**. He expressed concerns about the safety of bail enforcement agents and the requirement to obtain an enhanced concealed carry.

In response to a question from the committee, **Mr. Liscinski** explained he is required to carry and obtain a licence from the Idaho Department of Insurance, and in order to obtain the license there is an application process and a background check which includes fingerprinting. The license requires continuing education and ultimately they are licensed insurance agents under the lines of surety.

Jesse Taylor, American Bail Coalition (ABC) testified **in support** of **H 508**. The American Bail Coalition is a group of the surety companies, and they support this bill. This bill creates a mechanism to bring regulation to the bail recovery agent, not the bail bondsman.

Steve Ryan, Triton Management Corporation and Northwest Surety Investigations, testified **in support** of **H 508**. He is a NRA Instructor and a training coordinator for Triton Management Corporation, he believes Idaho bail enforcement agents need to be held to a higher standard. Approximately 10% of arrests by a bail recovery agent involve the use of force. When force is required, the agent is held to the same standard as Idaho law enforcement.

Roy Eiguren, explained there is no duplicity in the requirements in this bill and the requirement to be a licensed bail agent licensed by the Idaho Department of Insurance as an insurance agent to write bail.

In response to a question from the committee, **Mr. Eiguren** explained the intent of this legislation is not to require a licensed bail agent appointed to handle a surrender to meet this new criteria. The new criteria applies to a bail enforcement agent empowered to arrest an individual.

MOTION:

Rep. McDonald made a motion to send **H 508** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** requested to be recorded as voting **NAY**. **Chairman Wills** will sponsor the bill on the floor.

H 528:

Rep. Wintrow presented **H 528**. This bill creates a minimum standard for rape kit testing and provides a reasonable time for that process. It establishes a tracking system to improve efficiency and transparency. It requires an annual report to the Idaho Legislature to provide a continuous view of how the system is working. Without a statute in place there is room for inconsistent approaches which could impact efficiency and service. A question was raised about how to determine which kits should be processed and how. This questions stems from the complexities surrounding prosecution, investigation and a victims report. This bill clarifies and codifies which kits should be tested and the reasonable time line to do so. All kits will now be tested unless the victim indicates they do not wish to have their kit tested or if there is no evidence of a crime. The time line allows for 30 days to get the kit to ISP and allows ISP 90 days to process the kit. Language was added to indicate a delay in processing the kit cannot be used to inhibit a speedy trial or penalize a case. If a kit is not turned in for processing, law enforcement will consult with the county processor who will sign off. ISP will promulgate rules surrounding the tracking and will present the annual report to the legislature.

Jennifer Landuis, Director of Social Change, Idaho Coalition Against Sexual and Domestic Violence, testified **in support of H 528**. This bill addresses the gaps and short comings in Idaho's current processing of rape kits. Although there is concern about the level of false reports both the FBI and United States Department of Justice estimate the level of false reports is only 8%, no higher than any other crime. Only 30% of victims will report their rape because they fear the perpetrator, fear they won't be believed, fear being retraumatized by the system and fear nothing will happen if they do come forward. This legislation outlines a victim centered process for notifying victims about the status of their kit.

Cynthia Cook, SANE (Sexual Assault Nurse Examiner) testified **in support of H 528**. Since 2001, within the region which includes Ada County, Canyon County, Owyhee County, Gem County, Washington County, Valley County, Elmore County, Duck Valley and Ontario, Oregon, there has been 1,590 victims of sexual assault and 1,272 of them chose to have evidence collected. The process of collecting evidence is very extensive and on average it takes between 2 to 2.5 hours for a SANE nurse to complete the examination. The nurse remains on site for another four hours to confirm the evidence is handled appropriately, packaged and chain of custody is maintained. The examination includes a forensic interview, an assessment of their body, photo documentation of injuries and evidence is collected.

Matthew Gamette, ISP Forensic Laboratory, testified **in support of H 528**. The ISP Forensic Laboratory works with the manufacturer to identify the proper swabs and items for the kit, the kits are procured, and distributed to hospitals. There is no cost to the hospital or the victim, the cost of the kits is absorbed into the ISP budget. There is no tracking mechanism, the number of kits sent out and returned is reconciled but specific kits are not tracked. This bill would require a serial number for tracking. ISP Forensic Laboratory does not store the kits, they are processed and returned to law enforcement. There were 93 sexual assault kit submissions in 2014, and 128 in 2015. ISP anticipates continued increase in the number of sexual assault kits they process. An average analyst can work 59 DNA cases a year. The total cost, including facilities and man power averages \$3,000 per kit. Just the reagents and kit cost is \$500 per kit.

The current turnaround to process a non-priority DNA case is 213 days. Priority and speedy trial DNA cases do receive priority over other kits. Presently, there are 113 DNA cases in the laboratory which have been there longer than 30 days. The DNA casework is very different than the DNA database. DNA casework is processing a sexual assault kit or homicide evidence and the DNA database contains samples from convicted felons. There is no backlog of DNA database samples and currently the database contains 35,000 samples. There is a significant backlog in DNA casework. Analysts are being trained, and this will help with reducing the backlog. However, it takes an average of six months to one year to train a new analyst, the backlog will not be immediately remedied. Idaho's backlog of DNA casework is not significant compared to the national average. ISP Forensic Laboratory's goal, based on their current number of staff, is to be under 60 days to process a DNA case. Reducing the turn around time to less than 30 days has been requested by the Prosecutors and the Idaho Supreme Court.

In 2014, ISP sought information about the number of unsubmitted kits in Idaho through an optional survey. ISP was then able to meet with stakeholders and determine a policy of how kits should be processed. It was determined the policy would be if the victim requested the kit not be turned in, or the police decided there was no evidence of a crime, the kit did not need to be turned in to the ISP Forensic Laboratory. The results of the survey revealed that cases where identity was not in question were not turned in, this resulted in the perpetrator's DNA not being entered into CODIS. ISP Forensic Laboratory was able to work with the FBI to process these kits and by July 2016 the 265 previously unsubmitted kits will have been processed through the FBI lab and entered into CODIS. This bill allows for 90 days for ISP to process DNA casework kits, the goal is to complete them in 30 days but additional days are allowed for personnel shortages or equipment malfunctions. If the kit goes beyond 90 days the laboratory would be required to report the delay to the legislature.

MOTION: **Rep. Kerby** made a motion to send **H 528** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:42 PM.

Representative Wills
Chair

Katie Butcher
Secretary



PUBLIC DEFENSE COMMISSION

The price of freedom is eternal vigilance.

816 W. Bannock St., Suite 201

Boise, ID 83702

Tel (208) 332-1735 • Fax (208) 364-6147

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Darrell G. Bolz, Chair
Juvenile Justice Commission

Sara B. Thomas, Esq., Vice -
Chair
State Appellate Public Defender

Rep. Christy Perry
House of Representatives

Commr. Kimber Ricks
Idaho Assoc. of Counties

Linda Copple Trout
Idaho Court System

William H. Wellman, Esq.
Defending Attorney

Sen. Chuck Winder
Senate

Vacant
Executive Director

February 22, 2016

Honorable C.L. "Butch" Otter
Capitol Building, Room W223
700 W. Jefferson St., P.O. Box 83720
Boise, ID 83720-0034

Governor Otter:

The Idaho Public Defense Commission met on Friday, February 19th to discuss H0504, legislation from the Public Defense Interim Committee. The Commission was unanimous in its decision to support the legislation as an initial step toward resolving Idaho's public defense inadequacies, but there were some concerns expressed about items in the legislation. Some of the concerns were:

- (1) Whether the additional 4.5 FTE's identified in the fiscal impact statement would be sufficient to accomplish what the legislation requires of the Commission. The Commission had previously informed the interim committee that to fulfill its duties of processing grants and reviewing the provisions of services it would need a liaison in each of the seven judicial districts as well as an assistant director. The recommendation for only 3.5 liaisons leaves the Commission concerned about its ability to fulfill its obligations.
- (2) Timelines in the legislation in regards to the Indigent Defense Grants. The timeline appears to be short for the number of potential grants which the Commission will need to review. The legislation requires the Commission to review all grants within 60 days. If all forty-four counties apply for a grant it will be difficult to ensure adequate review within 60 days, especially in the absence of a liaison for each judicial district.
- (3) The salary of the Executive Director (in the proposed budget) may be too low for the Commission to be able to attract an individual of the quality which we feel will be necessary to accomplish what is in the legislation. It needs to be noted that the Commission might be able to supplement the salary in our current budget with some of the funds proposed for the assistant director in the proposed budget used to create the fiscal impact statement of the legislation.

Rest assured that the Commission understands that this is a positive step forward in being able to meet the Constitutional requirement of the 6th Amendment. We also know that the improvement of the indigent defense system is an on-going process with more steps to come. As we go forward we will need to closely examine what does and does not work and make improvements to enhance the system.

The Commissioners are committed to meeting the requirements of H0504 to the best of their ability.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darrell Bolz".

Darrell Bolz

Chairman, Idaho Public Defense Commission

CC: Senator Lodge, Chair, Senate Judiciary, Rules & Administration Committee
Representative Wills, Chair, House Judiciary, Rules & Administration
Committee

Senator Lakey, Co-Chair, Public Defense Interim Committee

Representative Perry, Co-Chair, Public Defense Interim Committee



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February 22, 2016

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Darrell Bolz

Chairman, Idaho Public Defense Commission

CC: Senator Lodge, Chair, Senate Judiciary, Rules & Administration Committee
Representative Wills, Chair, House Judiciary, Rules & Administration
Committee

Senator Lakey, Co-Chair, Public Defense Interim Committee

Representative Perry, Co-Chair, Public Defense Interim Committee

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Monday, February 29, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 505	Sex exploit child, electronic means	Rep. Chaney
RS24620C1	Sexual exploitation of a child	Rep. Chaney
H 522	Juveniles, custody, foster	Rep. Perry, Rep. Moyle
RS24613	Juvenile, adoptions, foster	Rep. Perry, Rep. Moyle
H 523	Foster care program, annual report	Rep. Perry

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, February 29, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Malek

GUESTS: The sign in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Wills called the meeting to order at 1:33 PM.

H 505: **Rep. Chaney** requested **H 505** be held in committee due to necessary changes.

MOTION: **Rep. Kerby** made a motion to **HOLD H 505** in committee. **Motion carried by voice vote.**

RS 24620C1: **Rep. Chaney** presented **RS 24620C1**. This legislation has the same affect as **H 505**, however some terms have been modified per the request of the courts and removes the use of "consensual" throughout the bill.

MOTION: **Rep. Luker** made a motion to introduce **RS 24620C1**. **Motion carried by voice vote.**

H 522: **Rep. Moyle** presented **H 522**. The Department of Health and Welfare is the sole authority on the topic of foster care. Judges should have more impact in these cases and should be listening to the guardian ad litem and the foster parents because they are familiar with the children and understand their needs. Presently, these cases are determined by the Department of Health and Welfare who discuss the plan with the prosecutor and move forward. The judges are extremely limited on what they can do in these cases. The intent of this legislation is to create the opportunity to hear from the foster parent or the guardian ad litem, and to provide the judge with a voice in each case. It is imperative the system be reformed in order to make the child's best interest paramount. There is more work to be done, and future legislation can be expected.

Rep. Perry presented **H 522**. There are systemic problems from intake to exit in the foster care system. Efforts were made to ensure there would be no loss of Title IV-E funding or overloading of the courts. This is an issue the public has been highly engaged in and is requesting be reformed. While it may be working for the department, it is clearly not working for others involved and especially not for the children. Research has proven children abruptly removed from their homes are so traumatized they have changes in hormone levels similar to that of combat veterans. What is done in CPS cases matters to these children for the rest of their lives. The lack of policy is the major contributing factor to the issues which prompted this legislation.

Specifically this bill seeks to set standards by increasing the role of the courts in the child protection process and to temper what is perceived to be as the department's sole authority in this process. It adds the court as a consentor to adoptions. This is imperative because often the individuals who could consent are no longer able to do so because their parental rights have been terminated. It sets parameters and expectations regarding the role of family members who may be potential adoptive or permanent placements for the children. This section is being amended to require a family member to respond to the notification within 60 days. This is imperative because too often the family member waits until the process has substantially progressed to respond. It makes changes to concurrent planning arrangements which are plans created and run concurrently to prevent halting the process and beginning again if the primary plan fails. This legislation will require if the primary plan fails, and the secondary plan moves into primary status, another secondary plan be created.

It allows foster parents to be heard at hearings. It adds judicial approval throughout the process. It seeks to stop child removals from foster homes for arbitrary or punitive reasons. This creates a requirement for when a child has been placed in a home for longer than six months, they are not removed simply for the purpose of a placement scheme. Specific parameters have been set to determine when a child should be moved from one foster home to another. If the reason does not fall within those parameters, judicial review of the reason is required.

Renee Swanson testified in support of H 522. She was a foster parent and is now the mother of her adopted son. He was in the system for three and a half years before they were able to successfully adopt him due to issues with the adoption, including being informed in the middle of the process he was no longer eligible for adoption and later being informed he was again. He struggles with detachment disorders due to his time in the system. She fostered more than twenty four children over the course of nine years and she saw them moved multiple times and moved due to becoming too attached to their foster families. Foster children deserve a quick response from the system. There needs to be more judicial control over these children as well as a primary plan and a contingency plan.

In response to a question from the committee, **Ms. Swanson** stated a reason frequently given for removal of children from her home was the child was becoming too attached to her.

Sharmaine Tosagy, Danielle Chigbrow, Michelle Alden, Jeff Roberts, testified in support of H 522. They provided information about their experience and their children's experience with the foster care system. Their children have been traumatized by their time in the system and continue to struggle today with a wide range of issues, including detachment disorders. Ms. Tosagy indicated she had an interest in adopting one of the children in her care but was never approached and was informed there was a adoptive family and the child was removed. Mr. Roberts indicated his now adopted children were removed from his home in the middle of the adoption process to be placed with a family member who did not indicate affirmatively she was interested in adopting when she was notified. His children were with her for only three months before she returned them to the system. His children are still struggling from the damage caused by being so abruptly removed from their home of two years.

Merritt Dublin testified in support of H 522. She is a former foster parent and now advocates for the parents and children in the foster care system. It is imperative people understand this bill is not about foster parent's rights, it is about the rights of foster children. Permanent placement decisions are insulated and are not subject to review. Idaho State Law is not consistent with Federal Law and should be revised because this is in the best interest of the child. The permanent placement preference is a cookie cutter response. Federal guidance regarding "relative placements" emphasizes early engagement of relatives for foster care for better outcomes for children, not permanent placement in lieu of attachments to foster care-givers. The term "placement" refers to foster care. All research and policy on "kinship care" refers to kinship foster care, which makes sense given the studies and the reasons the outcomes for children placed in foster care with relatives would be better. Federal policy states relative engagement must be early and late coming relatives may not be considered due to the child's attachments to current caregivers.

In response to a question from the committee, **Ms. Dublin** explained passage of this bill would change how a guardian ad litem and the courts may approach a case when a guardian ad litem disagrees a change by the department is in the child's best interest. Now the courts may listen to the guardian ad litem and make a decision in counter to the department. The department's current practice is not consistent with Federal Law, which could mean lose of federal funding. Every child placed in foster care is entitled to a guardian ad litem but does not necessarily receive one. The courts are not able to listen and make a determination in these cases due to *IDHW v Hays* in 2002. This case determined because IDHW must consent to an adoption as the appointed guardian of a foster child, only the Department has the authority to decide who will adopt the child. From this case, IDHW is considered to be the sole authority in placement decisions and judicial review of those decisions has been interpreted as only the right to review the case and not make changes.

Tom Turco, Chairman, Region 4 Idaho Department of Health and Welfare Keep Children Safe Panel testified in support of H 522. The Panel believe this legislation is in the best interest of the children because it requires early involvement of family members and preventing abrupt removal.

Brian McCauley testified in support of H 522. It may be argued these issues are an insignificant portion of the total quantity of cases the Department reviews each year, but there are no insignificant children. (See Attachment 1).

Joshua Wickard, testified in opposition to H 522. As an attorney representing parents in child protection cases, his primary goal is reunification. This legislation may change the playing field for parents who are striving to correct the issue. The parents may feel they now have to battle a foster parent who may appear to be a more suitable placement. Foster parents have an immeasurable impact in a child protection case.

In response to a question from the committee, **Mr. Wickard** explained foster parents are given the opportunity to share with the court their view and update the court about how the child is doing. Foster parents do have a voice in the judicial process and are very much a part of the court proceedings and cases. Foster parents are invited to every court hearing and are always given the opportunity to speak.

In response to a question from the committee, **Mr. Wickard** explained multiple moves is very difficult for the child and the parent must deal with the ramifications of their child being moved multiple times. In order to keep children in a safe and stable environment while the parents are working to address the issue, another bill is needed to address the removal process, the number of moves and funding for the Department of Health and Welfare. Abrupt removal and multiple moves are minor issues requiring greater analysis to better understand. This is similar to a child being in day care and the parent not liking something said by the child care provider, the parent has the right to remove the child from day care. In this case, the vested parent is the Department of Health and Welfare acting in the best interest of the child. Potentially, broadening the court's ability to review removals, moves and other circumstances surrounding the child's foster care placement, could be a good thing. However, more time is needed and all of the major stakeholders need to be included in the conversation to determine if that should be done and what the format would look like to do so. It is unclear how the change would affect the number of hearings or time spent on a particular case. The stakeholders need more time to review.

Russ Barron, Deputy Director, Department of Health and Welfare, testified on **H 522**. He cannot support the bill but does not oppose it. It is important to bring in all of the major stakeholders to discuss what is happening and how to correct it. An interim committee would be a good step. There are approximately 2,400 children served in Idaho's foster care system every year and approximately 70% are eventually reunited with their parents. The child's average length of stay is seven months.

In response to a question from the committee, **Mr. Barron** explained the bill would not affect Federal Funding. However, if the courts did not consider the Department's preferences when making their decision, federal funding could be lost. There may be additional costs due to additional hearings. The Department of Health and Welfare can do better. Taking too long or not taking enough time to achieve permanency can cause issues, further review is needed.

The committee recessed at 3:41 PM.

The committee resumed at 3:51 PM.

Miren Unsworth, Deputy Administrator, Department of Health and Welfare, testified **in opposition to H 522**. The Child Protective Act provides a legal framework for the state to intervene and address cases of child abuse, neglect, and abandonment. The Act specifies it is the policy of the State of Idaho to seek to preserve, protect, enhance and reunite the family relationship to the fullest extent possible. Thus, the Department of Health and Welfare's primary focus is to reunite children with their parents and families whenever it is safely possible and appropriate, but this is not at all costs and in all cases. In 2015, 214 children were adopted from foster care, 36 of those children spent more than six months with a non-relative foster family before transitioning to a relative pre-adoptive placement. It is these children this legislation seeks to address and this is an area the Department of Health and Welfare needs to give more time, attention, and evaluation. The Department has specific concerns about the legislation. It could place out of state relatives at a distinct disadvantage because the process of terminating parental rights can take up to 12 months. Because the goal is reunification the child needs to be near the parent in order to attempt reunification, which means the child is placed with a non-relative foster family. Because the process can take up to 12 months, the child would have been placed with a foster family for six months, and the bill states a relative placement would not be considered after the child has been placed for six months with a non relative foster care family. The additional hearings required may result in delays. The Department of Health and Welfare does recognize there is a need to formulize notice regarding moves and transition plans for children.

The requirement in this rule for an alternative plan is in line with current practice. Adoption of this legislation would result in a shift in notice of placements and placement changes as well as training for adopting new policies.

In response to questions from the committee, **Ms. Unsworth** explained all known relatives must be notified within 30 days of the child entering foster care. It can take time to find the relatives and conduct a diligent relative search, especially if there are unresolved paternity questions or the relative is out of state. The notification requirement of 30 days is the current practice. The current procedure is in the Department's standards and policy, and is a federal requirement, but it is not a rule.

In response to questions from the committee, **Ms. Unsworth** explained children can be moved from one foster home to another for a variety of reasons. The reasons outlined in the bill for moving a foster child, are the same considerations the Department would have for deciding to move a child. A child becoming too attached should never be a reason for removing a child. The notification process should be reviewed and tightened. A placement change takes place through a case worker in consultation with their supervisor. Removal due to safety concerns has a very specific process. If the decision is to make a determination about a permanent placement of a child, there is a specific process involving multiple individuals including a social worker, a supervisor, a chief, guardian ad litem and any other individuals who have been around the child.

In response to a questions from the committee, **Ms. Unsworth** explained the Department has a continuous quality improvement system which involves reviewing 210 randomly selected cases, one of the factors considered is placement stability. The Department has a foster parent conflict resolution process that begins at the supervisor level. It is unclear whether those voicing concerns were aware of the resolution process, as it would have likely resolved the issue. The reviewing party is not independent and is usually reviewed at the program manager level or the division administrator level.

In response to a question from the committee, **Ms. Unsworth** explained within the State of Idaho a relative home study can be completed within 90 days and the Department is confident they can meet the deadline. Because the Interstate Compact for the Placement of Children is not enforceable, the Department cannot guarantee home studies out of state will be conducted within 60 days. The identification of a concurrent goal is consistent with current practice.

Holly Koole Rebholtz, IPAA, testified **in opposition** to **H 522**. The Idaho Prosecuting Attorneys Association has concerns about the procedural issues for prosecutors.

Galen Fields, Child Protection Prosecutor, Ada County, testified **in opposition** to **H 522**. The overall goal of reviewing how placement decisions should be made is a good goal and has the support of the Idaho Prosecuting Attorneys Association, Ada County and Twin Falls Prosecuting Attorneys Offices. One concern is the fiscal impact on the county offices, the courts, the Department, the Public Defenders Offices, and perhaps the CASA program due to increased litigation. There is concern about the Federal Funding for foster care under the Social Security Act, being tied to an agency making placement decisions. Increased litigation could include foster parents litigating against the system or against other foster parents. It is unclear if the foster parents would be entitled to attorneys or are entitled to a public defender at county expense and whether there will be a discovery process. This litigation is likely to have the consequence of delaying permanency for the child. Absence of reference to the implications of the Indian Child Welfare Act which has its own priority of placement.

In response to questions from the committee, **Ms. Fields** explained the deadline for the family to respond could prove to be very difficult for her office. There are things which could be changed in the handling of temporary moves at the Department's administrative level, it is not necessary to involve the courts. It is unclear what the recourse would be if the child is placed in a home over the objection of the Department and something goes wrong. It is unclear if both the Department and the Court need to consent to adoption and one does not, who will have the priority.

Rep. Trujillo stated these time lines seem fair when compared to the 10 days a biological father has to respond to a paternity suit.

In response to a question from the committee, **Ms. Fields** explained it is common when a case is headed toward the termination of parental rights and the work is being done to identify family members who can foster or adopt. The 30 day window of time from when the child is removed from the home to when relatives have been notified will pass before the parent can present their case for maintaining parental rights and custody. Between the permanency hearing and a termination hearing the parents will begin attempting to negotiate their children's placement. Within the Child Protective Act the rules of evidence only apply at the adjudicatory hearing, and the termination of parental rights hearing. In that sense, foster parents could come and speak as they already do. The language does not foreclose their right to bring an attorney. It is unclear if the foster parents attorney would have the right to discovery.

Sherrie Davis, testified in support of H 522. She was prompted to become a foster parent after working in the juvenile courts and she has fostered 63 children since becoming a foster parent in December of 2008. One child she cared for was sixteen with an infant and only spoke Spanish. She was informed by the Department they would be seeking to place her with a Spanish speaking family since Ms. Davis did not speak Spanish. The afternoon she was informed the Department had found a placement was the same day the Department intended to pick the child up and deliver her to her new placement. She chose to deliver the child personally hoping to have an opportunity to apprise the family of some issues the child had. This opportunity was not provided and shortly after she was placed with the family they kicked her out because of the issues. Shortly after, Ms. Davis was contacted about a placement for a Spanish speaking child with an infant, it was the same girl. She supports the Department completely in their efforts for reunification but there are issues which should not be overlooked. Due to lack of follow up from the Department, Ms. Davis spends personal time and money to fly to Mexico to follow up on a child who was deported to Mexico. She understands the Supreme Court decision could not be overturned, but she expects to be heard. She has attended numerous meetings and provided feedback about changes the Department could make to improve and nothing has been done to correct the issues. She questions whether the major issues can be resolved, when simple things have yet to be corrected.

In response to a question from the committee, **Deena Layne**, Deputy Legal Council, Idaho Supreme Court, explained it appears with the passage of this bill there is a point after the adjudicatory hearing where more hearings would need to take place, in addition to the hearings the Courts are already required to hold. This new requirement could have an impact on the timeliness of permanency hearings.

In response to a question from the committee, **Judge Barry Wood**, Senior District Judge, Idaho Supreme Court, stated in attempting to determine if the courts have the capacity for an increase in hearings it is important to note different areas would be impacted differently depending on the number of the hearings. Hearings are what the Courts do, the question should be how it would impact the requirement to meet the time lines. If the legislature determines this should move forward because it is good policy, the Courts will do what they need to do meet the requirements. If it is determined more resources are needed to meet the requirements, then that information will be presented to the legislature.

In response to a question from the committee, **Ms. Dublin** stated she was surprised it was the understanding of some, that foster parents are receiving notifications and being allowed to express their view. It is important to note if the child is no longer in their home the foster parent is no longer considered to be the child's foster parent and they will not receive notice of the hearing. When foster parents are invited to the hearing, the Judge will ask if they would like to share any information and ask them a few specific questions. The Prosecutors Office and the Department of Health and Welfare take the position the foster parents are not entitled to any information about the hearing, which makes it impossible for the foster parent to participate and provide input if they don't know the reason for the hearing. Excluded from the definition of a permanency hearing under federal law is a hearing held without the participation of a foster parent. Guardian ad litem's have volunteer attorneys and foster parents are not coming forward with attorneys, they are coming forward and asking to be heard, this bill will not add additional costs.

Corinne Larsen, testified in support of **H 522**. In Alaska the courts rely on the testimony of the guardian ad litem and foster parents, and the Judge had the power to determine the actions the Department would take. In Idaho, during her time as a foster parent there were several instances where supervised visits were unsupervised and the children were hurt. When she raised the issue with the Department of Health and Welfare the response she received was the children would be removed from her home the next day. She reached out to the guardian ad litem and the children were returned with the understanding her family would adopt. They began the process and then the children were removed from her home. The guardian ad litem was left out of all of the decisions. When the case came before a Judge who appeared to agree with her family, the Department chose to have the case go before a different Judge who made the decision to remove the children.

In response to a question from the committee, **Mr. Barron** explained the budget is tight for staff to supervise visits, however, they do make sure the visits are staffed. The ratio for case worker to case load is estimated at 12-15 cases to 1 worker. The Department needs to own up to whatever mistakes it has done and improvements it needs to do.

RS 24613:

Rep. Perry stated it has been said foster parents in Idaho have no rights, it is imperative to note, this bill is not addressing foster parents rights, beyond having a voice in the court room. This bill is about how the children are handled when they are in foster care. Children want to be with their parents above all else, of course they do. Everyone knows there are problems, they have had years to make changes, but no one has proposed any solutions. No rules have been proposed to make changes. The changes in this bill are in regard to policy, and the clearer the policy the less there is to fight over. This bill slows the process and attempts to help the children in the system. It needs to be determined why there is a disconnect between what the Department says should be happening and what everyone else says is actually happening. It needs to be determined why what is said to foster parents is not noted in the case files. This will be a continuing process. **RS 24613** will exempt the Indian Child Welfare Act, and the case plan is removed from going to the foster parents.

Rep. Perry requested **H 522** be held in committee and **RS 24613** be introduced and sent to the Second Reading Calendar.

MOTION: **Rep. Trujillo** made a motion to **HOLD H 522** in committee.

In response to a question from the committee, **Rep. Perry** explained there are a number of formal hearings already in place including: shelter care, adjudicatory, case plan and permanency at six months and twelve months, review, annual permanency, termination of parental rights, appeals by any aggrieved parties, motions and stays.

VOTE ON MOTION: **Motion carried by voice vote.**

MOTION: **Rep. Trujillo** made a motion introduce **RS 24613** and recommend it be sent directly to the Second Reading Calendar. Roll call vote was requested. **Motion carried by a vote of 16 AYE, 0 NAY, 1 EXCUSED. Rep. Malek was excused. Rep. Perry** will sponsor the bill on the floor.

H 523: **Rep. Perry** presented **H 523**. This bill invites the Department of Health and Welfare to come before the germane committee with an update on Idaho's foster care system.

MOTION: **Rep. Dayley** made a motion to send **H 523** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 5:43 PM.

Representative Wills
Chair

Katie Butcher
Secretary

Hand-in!

SUMMARY OF "FOSTER CARE REFORM" PROPOSED LEGISLATION (2016)

Merritt L. Dublin, J.D.

February 29, 2016

There seems to be a myth in some child welfare offices that attached children can be moved with the assumption that the future placement will be a reflection of the past. Every time we move children who show the courage to attach, we teach them that attachments are ultimately painful....¹

Idaho Department of Health and Welfare currently has an express, standard practice of choosing distant, out of state relatives for permanent placements for children in foster care over the child's long term foster care placement, regardless of the individual needs of the child and, most importantly, the child's attachment to foster caregivers. Relatives are selected as the permanent placement so long as the relative meets the State's definition of "fit and willing." No other permanent placement option will be considered unless any potential relative option is first "ruled out" under this standard, which is the minimal threshold of having a home study approved in the state in which the relative resides.

Because of this policy, foster children are often removed from what have become their families (and in many cases the only family they have ever known having been placed from birth), and placed with unknown "relatives." Foster families watch as their happy, thriving young foster children experience intense emotional and physical pain from the literal disappearance of their family – just as children who have been removed from abusive or neglectful homes. But in these cases, there was no abuse or neglect—just a State policy that a blood relative placement—no matter how remote—is "better in the long run." And these decisions run contrary to everything these foster parents have been trained about the best interests of children, and well established principles of attachment and trauma.

Foster families who then ask questions about these relative placements, or express disagreement with these decisions, are told that if they do not support the placement decision, the foster children will be removed from their home to a new foster home better able to "transition" the child into yet another home....Foster parents know well that such a move would cause even more trauma to these children. Foster parents become afraid and have no ability to advocate for the children because they are told they are "not a party to the child protection case," or regardless, the Department has "sole authority" over these decisions under Idaho law and there is nothing even the court can do to change to course of that child's future.

¹ Training of Dr. Deborah Gray for the Idaho Department of Health & Welfare on June 24, 2011, page 1. Dr. Gray is an author, educator, therapist and former foster parent, and a leader in the field of attachment and adoption. She is the founder of Nurturing Adoptions, and the author of *Attaching in Adoption, Practical Tools for Today's Parents* (2002; 2009) and *Nurturing Adoptions, Creating Resilience after Neglect and Trauma* (2007).

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Boise, ID 83702

ASFA requires that the state file a termination of parental rights within that time period. Continuing delay, even to grant biological parents extra chances, is destructive to the child.”

J. Kenny, PhD and L. Groves, MMFT, BONDING AND THE CASE FOR PERMANENCE, PREVENTING MENTAL ILLNESS, CRIME AND HOMELESSNESS, AMONG CHILDREN IN FOSTER CARE AND ADOPTION (2010) (fn omitted).

More recently, “a description of the activities that a state has undertaken to ***reduce the length of time children who have not attained 5 years of age are without a permanent family. . .***” was added to states’ 5-Year Child and Family Services Plan (CFSP) reporting requirements that are necessary for the receipt of federal funding. Child and Family Services Improvement and Innovation Act, P.L. 112-34 Section 101, 42 USC 622 (2011).²

The IDHW Concurrent Planning Standard recognizes the importance of these attachments and that there is a time frame within which relatives should be considered for permanent placements because of these attachments:

Relatives should be instructed that due to the bonds of attachment the child forms with their caregivers, it may not be found in the child’s best interest to change placement to a relative who shows interest in being a placement resource later on in a case. Relatives should be made aware that when relatives wait to come forward until it is clear that their relative child cannot return home, and the child is in another stable permanent resource placement, the Department might not consider the relative a possible placement resource as it may not be in the best interest of the child to place with his/her relative at that time.

Idaho Department of Health & Welfare, Concurrent Planning Standard (rev. 12/15).

Nonetheless, the Department rarely rejects a relative for permanent placement, regardless of the child’s attachments because of the “relative permanent placement preference” policy and practice. Biological parents have deadlines because they are in the best interest of the child; but in Idaho, distant and remote relatives are granted indefinite “rights” to the children.

² Notably, in the current CFSP for Idaho, the only description of an apparent ongoing activity to reduce time in care for children under five (5) years of age is the use of concurrent planning stating:

A concurrent plan is developed for all children who come into the custody of the Department. *Many infants are adopted by the family (both relatives and non- relatives) with whom they are placed at the time of removal.*

3. Idaho's practice of not allowing foster parents to meaningfully participate in permanency hearings violates a child's right to have the court consider foster parents' input in making permanency decisions.

ASFA also added the provision mandating that foster parents be "provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child," 42 U.S.C. 675(5)(G). The purpose of the provision was the recognition that foster parents providing daily care for foster children are uniquely situated to provide the courts with information on the best interests of children in permanent planning decisions and otherwise. The implementing regulations defining "permanency hearing" expressly exclude any proceeding not "open to the participation of the foster parents" from the definition of a "permanency hearing":

Paper review, ex parte hearings, agreed orders, or other actions or hearings which are not open to the participation of the parents of the child, the child (if of appropriate age), the foster parents or preadoptive parents (if any) are not permanency hearings.

45 CFR 1355.20. Idaho's current practice of allowing foster parents to appear and speak regarding the status of the children in their care, but otherwise exclude them from the hearing, and deny them any relevant information about the placement options being considered, is inconsistent with the federal regulation defining a permanency hearing, and the child's rights to have the court consider the foster parents' input in permanency decisions.

4. Federal guidance regarding "relative placements" emphasize early engagement of relatives for foster care for better outcomes for children, not permanent placement in lieu of attachments to foster care-givers.

With regard to placing children with relatives, ASFA directs:

"Consider giving preference to an adult relative over a nonrelated caregiver when determining placement for a child, provided that the relative caregiver meets all relevant State child protection standards." 42 U.S.C. Sec. 671(a)(19). Placement refers to placing a child in the home of an individual other than a parent or guardian or in a facility other than a youth services center.

<https://www.childwelfare.gov/pubpdfs/majorfedlegis.pdf>

The term "placement" refers to foster care. All research and policy on "kinship care" refers to kinship foster care, which makes sense given the studies and the reasons that the outcomes for children placed in foster care with relatives would be better. This is not disputed. Families who are in a position to provide kinship foster care are more likely to have had a prior relationship with the child, or the child's parents, are supportive of reunification efforts with the parents and in local proximity which causes less disruption to the child and less trauma.

*Department's plan for the child.*³ Thus, when a foster parent questions whether a decision is in the best interest of the child they are caring for, they risk losing both the child and the possibility of the being an adoptive parent regardless of the individual circumstances of the child. There is no greater demonstration of abuse of power in our foster care system. This is a regular, unwritten practice and policy of the Department that under current Idaho law and practice, no individual – not the Guardians ad litem, foster parents, or courts, can prevent. The Department has no oversight in its decisions to move children under these circumstances, or otherwise, and foster parents have no means to object in court or provide information to the court on the decision to have a child moved.

The intent of the bill is to address these issues by asking the legislature to:

- Clarify that under Idaho law and consistent with federal law, the relative placement preference applies in foster care placement decisions early in the child's stay in foster care, and that permanent placement decisions always must be governed by the best interest of the child and consider the child's attached bonds.
- Clarify that under Idaho law and consistent with federal law, the Court has the duty and responsibility to pre-approve permanent placements both in and out of state as being in the best interest of the child.
- Clarify that under Idaho law and consistent with federal law, the Department's authority to consent to an adoption is subject to judicial approval as being in the best interest of the child.
- Create timeframes for the investigation of and notification of relatives for foster care placement to put an end to the current practice of giving relatives an indefinite grace period to come forward to be considered for placement and adoption.
- Clarify that under Idaho law and consistent with federal law, foster children have a right to have foster parents given fair notice of a hearing and the opportunity to be heard on the issues presented in the hearing.
- Recognize that moves in foster care create significant trauma to foster children with long-term consequences to the child's well-being, and clarify that under Idaho law that removal from a foster home must be shown to be for good cause, and in the best interest of the child, and give foster parents the right to be heard in court on the removal of a child from their home.

³ Case workers have justified the decision often by claiming the foster parent is "too attached" to the child, or the "bond with the child is too strong." Some states legislate specifically that a child may not be removed from a foster home on this basis.

February 29th, 2016

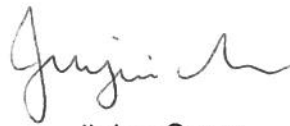
Letter of Support for Idaho Foster Care Reform Bill H0522

Hello,

I fully support the Idaho Foster Care Reform Bill H0522. My son was in the foster care system for 750 days. The circumstances that brought my son into care were heartbreaking, but seeing the decisions that were made on his behalf while he was in care for 750 were incredibly heartbreaking as well. We do not feel all of the decisions made in the Idaho Foster Care system are in the 'best interest of the child'. My son was exposed to continued trauma that, we feel, could have been avoided, and was absolutely in no way in his best interest. We did, in fact go on to adopt him, and we are still living with repercussions from decisions that were made for him. Thank you for hearing this bill and considering action to reform the Idaho Foster Care system so it can be better.

Our personal journey with the Idaho Foster Care system is enclosed in the packet of stories submitted. I have also attached a copy for your reference.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jinjue Serre', written in dark ink.

Jinjue Serre

February 1, 2016

To: Those helping to bring change to the Idaho Foster Care system

Our foster son was brought to our home at 2 months old. We fostered him for 25 months. During this time, we worked with multiple visit techs and safety/case/adoption workers from the Department of Health and Welfare.

Communication with our case worker was almost none existent. Between visits, needing vouchers, signatures for medical care, court dates, not to mention checking on how the child is doing, communication is important. Over 90% of our phone calls/emails to our case worker were NEVER returned. I reported to calling and emailing the supervisor, of all those times, I only received one call back. How are we supposed to care for this child well, when we cannot even get a call returned from his case worker? Vouchers could take up to 4 weeks after we requested them, case worker didn't show up to a specialist Dr appointment we needed him at, and we couldn't get him on the phone. It is our understanding foster parents we can come to court and have a couple minutes to update the judge on how the child is doing. The first time we went, we sat in the hall waiting (after talking to case worker) and were never called in. According to our CASA worker, who was in court, case worker never told the judge we were there.

Our foster son's pediatrician was recommending treatments that we knew were not suitable (we have past medical experience with other children). It took 4 months of horrible care before our case worker would agree to let us change Dr's. Bio Mom never came to a Dr visit or had a special interest in staying at this particular Dr.

Visits that are hard. We understand the importance of visits, if reunification is going to happen, but by this time, when the visits were becoming traumatizing, neither parent were working their plan and the child had been in care for well over a year. Countless times I would get a phone call demanding I bring our foster son to the department within 15 minutes because Mom requested a visit. This would be after I was told visits would be on hold until parent met with the case worker due to 4-5 missed visits in a row. As our foster son got older and grew healthy attachments, when his Mom would have a visit he would be literally be torn from my arms, screaming. I asked that the visitation tech take him from me, as he transitioned from me to the tech better than me to bio mom, but my requests were denied and bio mom was brought with the tech when she came to pick up our foster son, causing undo stress for the child. This process can effect his attachments for years to come. After being in our family for 14 months, and meeting his bio dad, for the first time, for a 30 minute meeting, our foster son was forced to go to prison. He was taken to prison, by a social worker whom he had never met. The worker, who was a complete stranger to this 16 month old child, took him to a facility where he was patted down/searched and taken to visit a man whom he had no previous relationship with. This went on sporadically for 4 months. These visits caused trauma to this child that he couldn't voice, being 16-20 months old, but it was evident in his demeanor and emotional state. It is obviously traumatic to take a child away from his only consistent, safe place, but then add being taken by a person he has never met, in a car he's never been in, to a person he had no previous relationship with... it was no wonder that his behaviors were abnormal, aggressive and dramatic for 5-7 days after each visit. He would cling to me and not let me out of his sight, not sleep well, become paranoid, and scared of everything. Even others outside of our family (occupational therapists, friends who regularly see us) noticed the changes in him days after visits. I'll never forget when we had to get a rental car. As we approached the car and got in he started screaming in terror. He thought we were sending him away. Each time his case worker/permanency worker came for their monthly home visit, as soon as he saw them (once he learned how to say 'no') he would say 'no no no' and cling to me, afraid they were going to take him away.

Thank you for listening and helping us better the system for foster children in Idaho
Idaho Foster Family hoping to help make a change!

Idaho Foster Care Reform

2016

NOTE: Contained are some of the stories received in the past two weeks after creating the Facebook page Idaho Foster Care Reform. Many others who have foster children in their home or hope to foster in the future, declined to share their stories because of concern the Department would retaliate against them; instead they expressed their support for immediate reform to the system. Current and former caseworkers for the Department also expressed serious concern about the gap between current policy and practice, but chose to remain anonymous so as to not jeopardize their jobs. All identifying information has been removed from these stories to protect the identity of those involved in each situation. This packet does not include the more than 800 comments received by signers of the petition or the myriad comments of support and concern by current and former foster families, current and former foster children and professionals who deal with child counseling and attachment/bonding issues.

House Committee
Judiciary, Rules and Administration

My first foster children were two brothers ages 6 and 4 months. The baby was a mess when I got him. He had double ear infections, he slept in 45 min increments all day and all night and his formula was upsetting his stomach. It took me about two months to get his ears cleared up, change his formula, and get him on a regular sleeping and napping schedule. Once those things happened, he became a different child. He was happy and bubbly, rarely fussing and was progressing at the normal rates. This was the family's fourth time in foster care, though only the baby's first due to his age, but he had siblings older than him. I had him for approx 4 months at which time he was returned to his mother, even though both the prosecutor and the judge said that the department should have petitioned for termination. Fast forward 7 months and I got a call to take the baby back. I was not the first person called to take him, even though I should have been since I was his previous placement. I readily accepted and was given a very damaged little boy back. He was 14 months old and would cower when you tried to talk to him or if you made any sudden movement. He wouldn't make eye contact and would hunch his shoulders and suck on his fingers. He was barely walking. He was unable to eat with a spoon or drink from a sippy cup. After his time with me he has become a healthy, happy little boy.

I have had him 10 months now and I agreed to adopt him. When I agreed my case worker told me how excited she was that I had agreed to adopt him because there were no other options for him. She agreed at this time that keeping him with his siblings would be detrimental to his well-being. His siblings have an aunt that is willing to adopt them but she is not his biological aunt and has no desire to adopt him. The caseworker told me more than once that if the aunt wasn't able to take all 6 kids, I would be the next option for placement since there was no appropriate family. The siblings are, well, damaged because of the life they led and the way they have been bounced around. They were allowed to act like animals and when my foster son is with them he acts like one too. He has attached to me and calls me mama. He's healthy and happy. But even after being told that I could adopt him, the department is now changing their minds, against EVERY recommendation and saying that if the aunt doesn't want all 6 of them then they will adopt them all out together! They have told the aunt that if she doesn't want all 6, then she can't have any of them. So she has said that if she has to take all 6 to get the 4 she "wants" then she will, and she will just put my little boy and his little brother in foster care. She feels backed into a corner because the department is telling her all or nothing. This doesn't seem right, legal, or ethical that they can keep her from having the children that she is related to or that they can force her to take kids she doesn't want! My little boy sees his siblings once a week, he has no attachment to them.

I have contacted a high level administrator at the department and he told me he wanted to make policy changes and that he would check into my case. He did look into my case but then basically told me that he is just going to just keep an eye on it and make sure they are following proper procedures. He had my regional director call me. The regional director spouted department policy that it was best to keep siblings together. He also told me that the department are the professionals and they are the ones that get to make the decisions, a team of people from the department who have never even met my little boy get to make those decisions for him! It's ridiculous. He also told me that research is actually now showing that "kids are resilient" and that separating them from their caregivers doesn't actually have the effect on them that "we used to think it does" and that in fact, the fact that he formed an attachment to a care giver means he will be able to more easily form attachments to caregivers in the future!! Um, I've never read anything that says that! In fact, quite the opposite.

The department's own policy states "Relatives should be instructed that due to the bonds of attachment the child forms with their caregivers, it may not be found in the child's best interest to change placement to a relative who shows interest in being a placement resource later on in a case. They should be made aware that when relatives wait to come forward until it is clear that their relative child cannot return home, and the child is another stable, permanent resource placement, IDHW might not consider the relative as a possible placement resource as it may not be in the best interest of the child!"

When I asked him about this, he told me he was unfamiliar with the policy! The person making the decision for my child is unfamiliar with a department policy? I offered to send him the link to it but he didn't take me up on it. I don't know how this case will turn out as it is ongoing, but I fear that my little boy will be put up for adoption with his siblings, taken from the only mother he's really every attached to, and end up damaged because of it!!

I was asked by my daughter, who is a foster parent, to be present at meetings with Health & Welfare social workers at her home because she did not feel safe meeting with the workers alone and so she would have a witness to the Department's actions. The first meeting I observed was to discuss the permanency plan for the two foster kids in her home. My daughter had also asked the Guardian ad Litem to be present at this meeting. The first thing the

social workers did was tell the Guardian ad Litem that she could not be present and that she needed to leave. The Guardian ad Litem had been appointed by the Court to represent the children, yet was not allowed to be involved. It was obvious to me that the Department had their own agenda and was not interested in what anyone else had to say or what was in the best interest of the children. Because my daughter had been selected to adopt one of the children and had a signed adoption agreement, when the Department informed her that they had changed their mind and were looking at family, my daughter hired an attorney to attempt to intervene in the case. At this meeting, she was reprimanded because she had not told the Department she had hired an attorney, because they did not like being surprised in Court. I was appalled that these educated social workers could think that a foster parent had an obligation to tell them when they hired an attorney to go against what the Department was trying to do.

The next meeting I witnessed, the social workers were very accusatory. They reprimanded my daughter for the way staff at the daycare treated family who came to visit the children. They also made it clear that it was her fault that the Guardian ad Litem was fighting against the Department, and that she was responsible for some of the things that came out in Court. My daughter pointed out to them that she was never present at the daycare facility when family came to visit and they should take that up with the daycare provider. She also pointed out to them that she was not a party to the case and had no control over what the Guardian ad Litem did. The question was asked of the social workers what would happen if the out of state family were for some reason unable to adopt the child that my daughter had been approved to adopt. She was told that they would then have to start over and look for more family and that she would never be allowed to adopt the child that she had raised from birth. At the same time, she was told what a great job she had done raising the child.

During all of the meetings I witnessed, the social workers were very degrading towards the foster parent and were not willing to work with the foster parent for the best interest of the child.

Our family believes that children are the sole future of our world. Children who have experienced foster care, who currently reside in that care, and those who will yet experience it in their lifetime are innocent victims critically affected by the actions and decisions of the adults in their lives. This includes the actions and decisions of the Department of Health and Welfare. The current foster care system does not advocate for the best interest of children and in many circumstances cause more trauma to the very child they have been entrusted to protect. These children have no voice, some because of their age and others due to their lack of development and inability to express their feelings. I speak for those without a voice today.

Our foster daughter came to our home on [REDACTED]. She was 2 weeks old. She was taken from the only home and parents she had ever known on [REDACTED] – 22 ½ mo, 688 days after she came. The Department had ordered that she visit her grandmother in [REDACTED] for 10 days. She never returned.

This child was born into foster care, to a teen mother who herself was in the system. Her mother voluntarily terminated her parental rights after 4 months, before the biological father was identified. She terminated her rights because she wanted us to adopt her daughter. After 5 months and 4 different DNA tests the biological father was identified. Once he was released from jail, he spent the next 7 months unsuccessfully working towards getting custody of his daughter. During that year, our foster daughter became securely attached to our family.

During these 7 months, it was determined that our foster child was 1/64 Indian. When the Department Head of our office found this out she called me in, emphatically stating "I am part Native and it is my personal mission to return all native children to their tribes." Thus began the prejudice towards us as foster parents and the best interest of our foster child took second seat to her 1/64 Indian Heritage. The following is a brief description of events that took place in this case:

- Due to very limited contact with her biological family during the first 18 months, our foster child became firmly attached to our family, and recognized us as her mommy and daddy, brothers and sisters.

- During the second year of the case, the grandmother was denied foster care licensing as a kinship placement by the State of [REDACTED] 3 separate times, ultimately never being approved.
- There was no effort on the part of the Department to assist this child in creating a healthy bond with her grandmother before they abruptly removed her from our home. Transitions during visits were nil, months without contact, no photos or phone calls. For the second time in her young life, this little girl forced to abruptly leave the very person she was most attached too, creating further trauma in her life.
- The Department was vindictive and threatening to the CASA worker when she did not support their position and planning.
- We asked for the contact information for the tribe to send notes/logs of case history. The Department told us that we could not communicate with the tribe. We brought this issue before the court at a review hearing and the court advised that there was no law that prohibited the foster parents from communicating with the tribe and in fact the Tribe requested our communication.
- The Department ignored requests for a transition plan that would support the foster child through the transition. In the end, we, the Tribe, and the grandmother worked to develop a "child friendly" transition plan, only to have the Department terminate that plan with their abrupt removal.
- The Deputy Attorney General who was called in to assist the Department in a court proceeding intimidated the CASA witness in the hallway before the final court proceeding. This witness, a Child Mental Health Specialist employed by the Department was forced to turn to Human Resources for relief from the continued persecution of the Department after the case was concluded. She feared for her job because she disagreed with the Department's opinion.
- The Caseworker told me on several occasions that she did not agree with the case and transition planning, but had to do what her supervisor ordered her to do.

It is impossible to make a summary of these past 38 months in 3 minutes. However, in closing we would leave you with this fact.

In this case and many other cases, the Department's goal of reunification with the family is a statutory myth. This child never had a bond with her father, mother or grandmother. She only knew one family – Ours. Reunification could not have been accomplished. The law does not take into consideration circumstances when the child has no bond with any family member and the important primary bond is established with their foster family. In conclusion, more emphasis needs to be placed on what is best for CHILDREN in foster care. We need to minimize the amount of trauma that is added to their already complicated life and honor the attachments that they make to the very people, foster parents, who know them best by virtue of walking the fire of adversity beside them. I would like to leave you with a quote from a leading Child Trauma specialist, Bruce Perry:

"Although it's commonly believed that by the time we become adults we forget the trauma we experience as babies and toddlers, in fact the first thousand days of life may set the course of our health for the rest of our lives"

When the boys came to live with me they had already been in foster care for eight months. Their father was in prison for physically abusing their older brother, another brother had been permanently removed from the family for sexually abusing their sisters. In fact, all of the children had been sexually abused by members of their extended family. In spite of this, the boys were generally cheerful children, and they had been happy and comfortable in their first foster home. They were removed from that placement because of an accusation against their foster parents by their mother. The accusation was probably unfounded, but they were taken from that home with only a few hours' warning, and they were told at the time that the move was expected to be temporary. As a result of the move, the second grader changed schools – to his third school in three years. I took him to say goodbye to his teacher, but he missed the friends he had made in his old school for a long time. Although he loved his new teacher and spoke well of his classmates, it was months before he dropped his guard enough to make real friends. By the next fall, he was thrilled to have close friends to proudly invite to his birthday party. With stability and structure, this child who had been in the extended resource room a year before was able to access his amazing

potential and improve his academics so much that he was dismissed from special education. For the first time in his life he realized that he had talents and abilities, and he began to take pride in them. He learned what an engineer is and hoped to become one – the first time he'd ever dared to imagine a future.

While his brother moved to a new school, the preschooler remained at his previous school at his mother's insistence. This meant leaving the house at 6:30 in the morning so that he could catch the Head Start bus, as well as a move to a new after-school daycare. This little boy was so sweet and smart, but he *hated* the daycare. He cried every single morning for four months when he remembered that he had to go, but my repeated pleas to the case workers to consider a change in his interest fell on deaf ears. It wasn't until summer finally came and he could be home or go with his brother to our family sitter that he finally felt happy.

Both boys were wonderful, bright, good-natured children, but they came to me with a history of betrayal. The older boy was quieter, wary. He turned his anxiety inward and against himself. Early in their time with me, he pulled his own tooth out long before it was ready to come out, and for months he managed anxiety by picking at his skin or scratching himself. Changes in his routine led him to run to his room and hide under his blankets, and there were weeks when I had to change his sheets every morning because he had wet the bed. It took at least six months before he truly trusted that he could come to me and get the help he needed. The younger boy turned his stress outward. In the first months, he would burst into tears or fly into rages that seemed inexplicable. After many months of holding and hugging him through the tears and screams, he finally believed he was safe. Life settled into a calm, comfortable, loving routine.

Until the case workers decided that members of the extended family should adopt the boys.

Parental rights had been terminated a few months earlier, and the department had asked me if I would be willing to adopt the boys. They pointed out that the boys were thriving in my home, and the boys told case workers they wanted to stay there. Of course I was delighted to adopt them, and we all began to anticipate our futures together and talk about the things we would do. But after the boys had been in foster care for a year and a half, case workers convinced relatives to pursue adopting them. Although asked by case workers, these relatives refused to take in the boys when they were first removed from their home, and they refused again when they were removed from their first foster home, in spite of seeing them regularly at supervised visits. These relatives were also 70 and 75, meaning they will be close to 90 when the boys reach adulthood. Given their current health problems, however, it is unlikely they will live that long. I pointed out to social workers that they were nearly guaranteeing that these boys would face more losses, but they continued to pursue the relatives as adoptive parents and began unsupervised visits with them. During these visits the boys were exposed to extended family with severe emotional and behavioral problems, histories of perpetrating physical and sexual abuse, unsupervised contact with the parents who had lost custody of them, and unsupervised play in dangerous situations, including around firearms. The older boy began wetting his bed again. He began lying, and stealing. He became openly skeptical of all adults and their motivations. The younger boy's rages returned. He began to have nightmares about being kidnapped from our home by strange men. When I expressed concern about this to case workers, I was told that the nightmares and rages and sobbing fits were normal. I pointed out that none of those things were normal experiences for a 4-year-old, but case workers literally shrugged and told me that "biology is best".

Three days before Christmas, the boys were moved to their new home with their great-aunt and uncle. We celebrated the holiday together before they left, and on the day I packed boxes and boxes of toys and clothes and books – the accumulated evidence of our lives together – into a van and watched them drive away. The social workers who had forced that moment upon us weren't there to witness it, just like they weren't there when I told the boys it would happen, and held them as they sobbed.

It's been two years since they were placed with their relatives. They have attended at least two schools in that time. Because the relatives who adopted them move frequently, they will undoubtedly attend many more. Their potential will likely remain untapped – no one in the family has attended college, and the family's culture does not encourage achievement. The choice of an adoptive home was made entirely on the basis of a fairly distant biological relationship. "They always go back to their families, anyway," I was told. Meanwhile, their sisters were returned to their mother because, at ages 11 and 12, they were "basically old enough to raise themselves". When social workers say things like that, it's clear that decisions are being made because of misguided policies and not in the best interests of vulnerable children.

Thank you for sharing your story. I am so sorry that you had to go through that especially seeing that if we had done what you are doing back in February of 2015, you might not have gone through it as well. Our story is so similar to yours except that we were never Plan B. Our children had been in the foster care system for 18 months when we got a call from our adoption agency looking for an adoptive placement for a group of siblings. Parental rights were expected to be terminated within a few months and we would be officially selected as the adoptive family and be legal guardians of these children within a year. We were told there was a biological father of one of the children who had not been identified but that they were not planning to pursue that. After 9 months of having these children in our lives, parental rights were finally terminated and we were informed that the father had been found and his whole side of family needed to be researched. A relative came forward to adopt them and even though the case workers felt it was not an appropriate placement, they told us they needed to allow them to complete a home study. There was no deadline for when this home study needed to be completed. On top of that, we were told the department had decided they needed to try and reunite the children with other siblings who were in another pre-adopt family. Because of the immense needs of all of these children, they believed chances were slim that they would find a family capable of caring for all of them but that they were "required by law" to pursue that option. In February 2015, after almost a year and a half of bonding with these children, working with multiple therapists and counselors to help them attach to us, and treating them as our own children, the department decided to move them to another pre-adopt home.

Again, similar to your story, it wasn't THAT they moved them but HOW they moved them. There is much more to our story but the summary of it is that they picked up the children from their school and moved them to the other family without informing us. They told us to pack their stuff and bring it to the department. Our case workers acted in an unprofessional manner with us, the foster children and the other professionals involved in these children's lives on so many instances that I cannot even begin to write it here. The worst one being when they pulled our foster child out of class by herself, with no other supporting people around her, to tell her the traumatizing news that she was going to be moving to a new family. They then sent her back to class to continue learning with a hand written note of what the transition schedule would be. That is how fast the decision was made that she didn't even have time to type up a letter. (Again there were NO safety concerns.)

We also escalated the issue to the top of the department and had many meetings with several managers. They repeatedly told us there were no safety concerns in our home. They admitted to us that it was not handled appropriately and that changes had been made to their processes based on our case but that nothing could be done about our children at that point. We were allowed to see the children to say goodbye but have not been able to maintain contact with them. We don't know what they told the children or the new family about us and can only imagine that they feel abandoned by us and unloved which is the furthest thing from the truth. We decided not to fight the system as you are doing because we didn't want the children to have to move again. They had already been through so much and we didn't want them to be uprooted again, even if it was to be returned to us. The children have since been adopted so we feel it is time to speak out. We have stopped our fight to adopt and our only biological daughter will never have a sibling because of this situation. The only siblings she has ever known are out of her life and she is not even able to write them letters. As you can imagine, the emotional trauma this has caused our family has been immense. This affected not only our family but our family friends, classmates and their families, teachers, counselors; all of whose communication was cut off completely. The children were not given an opportunity to say goodbye to any of them and professional services they received while in our home were abruptly ended.

Changes need to be made immediately. The court system needs to have oversight. The judge in our case recommended that the department leave the children in our home and not pursue the other relative placement but they did it anyway. The judge told us she did not have jurisdiction to decide placement decisions but just that she was there to make sure the department did their due diligence in finding permanency for the children. I am a trained counselor who has helped many adults and children who are experiencing trauma and Post-Traumatic Stress Disorder but I did not know about the level of dysfunction within the foster care system until we became a foster family. I believe that most of the case workers are good people who get into this job to help children but they are

dealing with high stress, huge case loads and difficult situations. So many of them are dealing with secondary trauma and that is passed on to the foster parents and children on their case load. When our soldiers come back from war, they are evaluated by medical and mental health professionals to help them debrief and see if they are able to go back to the fighting. The same thing cannot be said about our foster care social workers. Most of them have only bachelor's level degrees. They need to be overseen by psychologists and evaluated on a regular basis. In addition to the changes you are recommending, there needs to be a protocol for informing children of traumatizing information. Transition recommendations from their own classes need to be followed, there needs to be oversight for case workers to make sure they are not too burnt out or having counter-transference issues and there needs to be more urgency in permanence. If changes are not made, it will be a disservice to all involved in the foster care system, but primarily the children.

My first foster children were two brothers ages 6 and 4 months. The baby was a mess when I got him. He had double ear infections, he slept in 45 min increments all day and all night and his formula was upsetting his stomach. It took me about two months to get his ears cleared up, change his formula, and get him on a regular sleeping and napping schedule. Once those things happened, he became a different child. He was happy and bubbly, rarely fussing and was progressing at the normal rates. This was the family's fourth time in foster care, though only the baby's first due to his age, but he had siblings older than him. I had him for approx 4 months at which time he was returned to his mother, even though both the prosecutor and the judge said that the department should have petitioned for termination. Fast forward 7 months and I got a call to take the baby back. I was not the first person called to take him, even though I should have been since I was his previous placement. I readily accepted and was given a very damaged little boy back. He was 14 months old and would cower when you tried to talk to him or if you made any sudden movement. He wouldn't make eye contact and would hunch his shoulders and suck on his fingers. He was barely walking. He was unable to eat with a spoon or drink from a sippy cup. I have had him 10 months now and I agreed to adopt him. His siblings have an aunt that is willing to adopt them but she is not his biological aunt and has no desire to adopt him. The caseworker told me more than once that if the aunt wasn't able to take all 6 kids, I would be the next option for placement since there was no appropriate family. The siblings are, well, damaged because of the life they led and the way they have been bounced around. They were allowed to act like animals and when my foster son is with them he acts like one too. He has attached to me and calls me mama. He's healthy and happy. But even after being told that I could adopt him, the department is now changing their minds, against EVERY recommendation and saying that if the aunt doesn't want all 6 of them then they will adopt them all out together! So they want to rip this boy away from the only actual mother he's ever known and thus cause attachment issues. He sees his siblings once a week. He doesn't know them and he isn't attached and yet the department insists that all the kids need to stay together! This is not in his best interest and the aunt is going to fight but I worry that he will be placed up for adoption and ruined because of someone at the department. The caseworker has'out right lied to all parties involved and yet the department turns a blind eye, even when she has been caught in the lie.

In between times that I had the baby boy I also has a little girl. She was 2 when I got her. She would growl and throw wild kicking, screaming tantrums, she would hide in the corner and she wouldn't interact with others. After a few months with me she got better and was doing well. She had been taken from mom who wasn't really working her case place. Once paternity was established, Dad entered the picture, having never met his daughter. He was content with once a week visits for 7 months! He never once expressed an interest in getting custody and the paternal grandparents refused to have anything to do with the child. When it became apparent that the mother was not going to get her back, the caseworker pled with me to consider adopting her as there was no appropriate family. I did not go into foster care to adopt and never wanted to. But the caseworker asked me to consider it. So I spent a great deal of time pondering it and decided I would. I informed the caseworker that. I would be willing to adopt and she was thrilled. Then suddenly, dad decides he's interested and paternal grandparents suddenly want to see her too. I believe the department pushed them into it. Dad was unfit. He didn't care about that little girl, he just didn't want to pay child support! He did not consider her well being. He refused to put her in speech therapy even

though it was recommended. I expressed numerous concerns to the caseworker and the guardian ad litem and was told the concerns were valid and they had similar concerns. I told the caseworker that perhaps we could suggest to dad that I adopt the little girl but let him continue to be as involved in her life as he wanted. That way I could take care of the day to day responsibilities and he could still see her. The caseworker told me that she couldn't suggest that to dad. Sadly, the little girl was returned to her father, despite the concerns, and has regressed. She is back to growling and throwing herself on the floor and she doesn't talk or interact with others.

The last one was a couple of months ago. I received two kids, ages 3 and 1 into my care because the previous foster mom was "sick" and unable to care for the kids. I was their 4th placement in 9 months!!! The caseworker coddled bio mom and did not make her take her any responsibility. When I expressed concerns, the kids were suddenly removed from my home and given back to the previous foster parents two weeks before mom was to get them back. I was told they were being moved because the caseworker was tired of me telling her she wasn't doing her job! The kids were bounced around because the caseworker didn't want me disagreeing with her!!!

I contacted my own representative and was met with sorry. In Idaho bio parents have all the rights and even if we wrote a bill to change that, it won't pass. That's it! He had no concern for what was going on.

It is sad that the department has all the power and it doesn't matter what anyone says. They do not act in the best interest of the children and don't listen to the people who do! They want foster parents to simply be babysitters and then hand over the kids whenever they are told. When you start fighting for the kids, you get in trouble.

Here is the update;

I've spoken with someone in high level administrative position within the department. He assures me that he wants to help and make policy changes and that he would look into my case. He has in fact looked into my case but basically said that he's just going to watch it and make sure the department is following correct procedures. The department is trying to force an aunt of the siblings who lives out of state (not a relative of my little boy) to take ALL of the kids, even though she has said that she doesn't want the younger two. She said though, that if they make her take the younger two to get the "ones she wants" then she will but she will just put the younger two (which includes my little boy) in foster care! I got a phone call today from my regional director who did nothing but spout department policy and tell me that research shows that siblings should remain together. He also informed me that research is showing that it actually doesn't have as big of an affect on these kids to separate them. Kids are resilient, he said, and if they attach to one care giver, then that helps them to more easily attach to another care giver!! This goes against everything we have been taught in PRIDE or any of the research I have read. He also let me know that the department are the "professionals" and therefore they are qualified to make decision about what is in the best interest of the child, even though they have never even met the kid!! So, the department's stance as of right now, is that it will be better for my little boy to sent to live with the aunt, or in an adoptive home, with all of his siblings, siblings that he doesn't know, and isn't attached to; siblings that have some major issues with behavior and emotions. He sees nothing wrong with placing an innocent child in a situation like this. It is so frustrating!!

My husband and I have been foster care parents since [REDACTED]. At that time, we received four (4) children, all siblings. We have known the mother of the children for twenty (20) years and therefore were considered "kinship". At first, we didn't have any problems with the department other than not receiving responses to emails and phone calls for day, even weeks (even though the department standard is 24 hours). However, our case worker went on maternity leave earlier than expected and we received a new case worker, [REDACTED]. All of our interactions with him and his supervisor have been negative. Immediately after he was assigned the case, the children began overnight visits with their birth mother. The case had been open two (2) weeks shy of a year when he took over and the children were still having twice weekly supervised visits with their birth mother. This was due to the fact that she had submitted multiple dirty UAs for methamphetamine and was not living in adequate housing. Each Sunday evening when the children came home from their visits, there were issues. The youngest child (whom

turned five (5) on Christmas) regressed due to the changes in their schedule. When she would come home, she would be covered in dried urine as well as the clothes she had worn at her mother's over the weekend. I reported it to our case worker, and he ignored the health issue. One weekend, three (3) out of the four (4) children came home with a rash all over their faces, arms, backs, and chests. Their mother refused to seek medical attention all weekend. I took them to the doctor the following morning and it was determined the rash was due to a severe case of bed bugs from their mother's home. I reported this to the case worker, and again he did nothing. The children then disclosed to us that there was physical abuse occurring in their mother's home. She lives with a transsexual who has three children of his/her own. Our foster children informed us that he/she gets angry with his/her sons and "chokes them and throws them on the floor really hard". The children also told us about a "game" they play with their mother in which they slap her as hard as they can in the face and then she slaps them in the face. This "game" was witnessed by the mother's sister and reported to us. I reported these concerns to the case worker, and again he did nothing. Despite the mother not completing multiple tasks on her case plan, the department chose to return the children to her. Per her case plan, she was to maintain housing and employment for a minimum of six (6) months. She obtained housing a few weeks before the year review hearing in [REDACTED] and at that time, still was not employed. The housing she is in is not sufficient as it is a 3-bedroom home of which she has one room and her roommate has the other. This leaves one (1) bedroom for her four (4) children and her roommate's three (3) children. The department determined this was adequate. She also does not have a driver's license due to failing to pay child support for her other two (2) children. When the department was questioned about this issue, they reported that they "don't care if she drives illegally with the children in the car" stating that it's a "poverty issue" rather than a safety concern. After all of this, the department asked us if we supported reunification. I responded that I did not support reunification at that time due to the fact that she had not completed the case plan created by the department when the kids were removed. Our case worker's supervisor then told me to "learn my place" and if I didn't, they would take the children away from us. Unfortunately, they chose to follow-through on their threat. A couple of days before our final court hearing in [REDACTED] to determine if extended home visits would be granted, the department called us and informed us that despite the ruling in court, the children would not return to our custody. They reported "we know you have created a great home and the kids are well taken care of. We know the kids love you and will be greatly traumatized if we remove them and split them up, but that's what we are going to do". When asked to explain why they were making that decision, their response was either silence, or to say "that's just what we decided". Despite all of the biological family members of the children, as well as the Guardian ad Litum, voicing their concerns with the children returning to their birth mother, the department chose to recommend it to the judge. They gave the Guardian ad Litum the options of either supporting extended home visits or supporting that the children be split up and sent to different foster homes. Therefore, the Guardian ad Litum had no choice but to support a return to the birth mother.

As being raised in foster care, living with several different families through out the years, there were good experiences, but then some very bad ones! I learned how to adjust to different aspects of life, as each family has different dynamics, expectation, food, ect..... Then on top of that, you always wonder how long you will be there. You learn not to keep anything as you cannot take much with you. The greatest desire is to be loved and accepted, no matter what, but so many of the foster parents do not know exactly what kind of behaviors they will have to deal with..... And instead of helping the child, they choose to move them out..... So as that result, the child learns once again not to trust.....,now years later, I have learned it is OK to have material things, I still have trust issues and relationship issues.

I did have a couple of families that wanted to adopt me....my birth mother and father refused to allow the adoption to happen.

The most important thing you could do for the children placed in foster care..... Is security!!! The only reason for a child to be moved out is abuse of any form! Never because the social worker decides that there is to much of a connection.... We need these kids to come out of a horrible situation as healthy, physically and mentally healthy adults!

I write this with a heavy heart. It is difficult to attempt to summarize my family's experience with the Idaho Foster Care System. We became foster parents three years ago. I worked full time at a Boise psychiatric hospital on the adolescent girl's unit. This was how I came to know about the problem in our society of teenage girls with behavioral and mental health issues having absolutely no where to go. I was astonished to discover that teenage girls were the most difficult to place in foster care. Basically, no one, not even foster families would take them. This became heavy on my heart and after discussing it with my husband we decided to become part of the solution. This was our motivation in becoming foster parents.

Subsequent our first placement of a seventeen year old girl we decided to go to work for a company called PATH. PATH foster parents are the highest level of foster care. It is a full time job that I became very passionate about. I gave up my job at the hospital and became a full time foster parent for up to two girls at a time. Throughout this time we had seven different girls placed with us from anywhere from a few days to permanently.

In [REDACTED] I met the sixteen year old girl that would change my life. My husband and I have three grown children and four grandchildren and had no intention whatsoever of adopting. This young lady who I will call Leilani, blew into our world with all of her behaviors, emotional turmoil, mental illnesses and the world's most beautiful laughter. and she stole our hearts. I went to every therapy session with her, every doctors appointment, every social worker meeting, every court hearing, (and there were many because she frequently broke the law by running away and stealing) yet through it all I saw how deeply she needed us. Her biological mother was given over five years to get her back and failed on all accounts. I remember her last hearing regarding this and she asked the judge if she could speak to me. She stated in front of everyone how grateful she was to have me as her "Mom". Leilani had run away six times. Each time she would assure the police that she had a wonderful home life but sometimes she just had to run. We understood and hung onto her. At one point my husband was rather burnt out from all the running away and two social workers sat in our living room and basically begged us to take her back. We did. I remember the social worker saying to me, "You wouldn't give up on your birth child would you?" We were submitted and approved as the adoptive family. We even had the judge chosen to do the adoption. Judge "O" in Caldwell who is a magnificent man.

The last 8 months or so we have had some marital issues. I know now that having a teenage girl with such issues can wear on a family. But that was ok, she was still our daughter to us. Regardless, at one point we were considering a separation and spoke openly about this to Leilani and the social worker. We were told the department of Health and Welfare would not take her from us. In [REDACTED] Leilani ran away again. A few days later I received a call from her social worker that Leilani was to be removed from our home. Apparently there had been a meeting which we were not invited to be a part of, and the decision was made. All that was told to me as a reason was that she had accused me of being a drug addict (I have 18 sobriety) and that my husband had warrants. Both of these accusations are easily enough checked out. However, I was instructed that when she came home I was to call him and he would move her to another home. I still remember the look on her face when she opened her bedroom door and asked, "Am I going to another home?" Instant despair.

Subsequent our foster daughter being removed, I called the social worker and was in tears. I stated, "You took my daughter." He replied rather indignantly, "You are not her mother. She is not your daughter. You are her therapeutic foster mother." I was devastated. My question to the department of health and welfare would be, "When do I become her mother? If you so easily dismiss us as her family, how is the foster child ever supposed to know that we are truly her parents and family?" Today this precious young lady is listed as an endangered run away. Although she has runaway multiple times, I hold the department responsible for her situation. Rather than make her face the natural consequences of lying about your parents (which many teenagers do), the social workers simply placed her in another home. She will be eighteen in August 2016 and will have no legal parents other than the state. I miss her everyday and I know that we are the only family that she has truly bonded with. In particular, her relationship with my husband, whom she calls 'Dad' is the saddest part of this. She has never known a father that would love her unconditionally and not abuse her. When the state took her she not only lost her parents, but also two sisters, a brother and three nephews and a niece who all adored her. There was no closure for us as a family. Once she was taken we were treated like some type of social untouchables without ever knowing why. We poured our time, money, emotional and mental energies into being her family and in one quick phone call it was all taken away.

I am a grandparent who is raising her grandson. My grandson went into the system 9-11-2014 and I've had him for most of his life, he was 6 months old and is now 35 months old.. We are currently in process of going to termination the end of this month. My son didn't do his case plan and the Mom is a drug user and is currently in jail for probation violation. The parents did agree to let my lawyer do an intervention and consented to me being my grandson's guardian, the judge signed off and gave me full and sole legal custody. Health and Welfare won't accept the judge's decision. Also at a cost of \$7000.00 so far. I used my 401k .

My husband and I have finally been approved to adopt our grandson, but we're not there yet. H&W want me to testify against my son and my grandson's mother in court at the trial. I don't want to do that but I do want to keep my grandson and I don't want him placed with somebody else. I have lived in fear the whole time we have been a foster parent that they will take our grandson away from us. Grandparents have no rights to their grandchildren. We have been to court many times and have never gotten to have our say to the judge, we have not had anyone truly represent our grandson in court, we see new faces every time we go to court ,how can new faces know what is best for my grandson? They are given the file and they just read what someone else reported. Even if the children have representation, what ever H&W recommends is what happens. No checks and balances in the courtroom and if there was H&W doesn't have to agree with them. How can they have so much power? I like being a foster parent, I love children and feel all children deserve a chance to a normal, loving table and safe family. My husband is afraid that this is going to take away our chances of getting our grandson for - Adoption. I so hope he is wrong.

When I was a young child, my mother was involved in a fatal car accident. With nowhere else to turn I was placed into the custody of Idaho Department of Health and Welfare, splitting up my siblings. As the years went by and the houses kept changing, I was left to wonder, why does this keep happening? Doesn't anyone care? With all these questions running through my mind and the continual change in locations, I was left to believe that I must be the reason for all this movement or relocations. While in the custody of IDHW, around age 16 I was placed into a foster home which was to be the location where I would "age out." While in this final home I was involved in a major car accident and suffered a severe brain injury. After months in the hospital and to my surprise, I was returned to the same foster home I was previously placed (the best thing to have happen) To make a very long and hard story a bit more bearable, I have firsthand knowledge and am the result of continual damage of being relocated and not having the security of being kept with a family, to build a family connection, to feel accepted and loved. The results are unbearable still to today, over 20 years later.

In the beginning of [REDACTED] we got a phone call from my daughter telling us about [REDACTED], he was born [REDACTED], which he is a cousin to our kids, [REDACTED] was removed from his mother and father [REDACTED] and [REDACTED]. On [REDACTED] he was removed from the home and he was in foster care and had been taken out of one and put in another, we were told that he was in and out of the hospital, he got his leg broke and would we become foster parents, so my husband and I did all the necessary steps to become a kin foster family, the licensing agent came into our home and checked everything out, she asked us if we would like to bring in more children, at that time we did not, So on [REDACTED] [REDACTED] came to live with us.

In the beginning there were no visitation with the parents, then I took him to the health and welfare so he could have supervised 2 hour visits, It was a hit and miss with the mother showing up for visits, then one visit the police showed up and arrested them both, the mother [REDACTED] boyfriend bonded her out, however [REDACTED] is still in jail, the mom had moved into a 2 bedroom subsidized apartment with her boyfriend [REDACTED], who was only 17 at the time and was still living with his parents and 2 brothers and a sister and dogs, snakes and mice to feed the snakes, she started getting visits out there [REDACTED], he was picked up from our house at 11 and dropped back off at 2. It started getting harder and harder to see him go. He kicked and screamed not wanting to go. Then we found out she was pregnant again with her 6th child, then she got a monitored ankle bracelet from some of her

wrong doings with the law, So a woman hired by the state came to pick [REDACTED] up and drive him out to visit, this went on for 3 months while she was on house arrest. Then the state started giving her overnight visits, when he came back from his visits, he was filthy, not bathed, and starving. [REDACTED] canceled visits about every other week, then they all got kicked out of their apartment. They moved into approximately a 16ft camp trailer with no running water and a portable electric heater, there is only enough room to get to their bed that is a table or the couch. They have a basinet in there in front of the sink for the new baby [REDACTED], [REDACTED] sleeps on another bed, there is no room to play, he is now 19 months old, here he had his own room, lots of toys, lots of room to run, he had his own T V where he liked watching Mickey mouse clubhouse, Sesame street, Sid the science kid. We read books, we taught him everything he knows, We understand the state is for Unification, however how can the state and the social workers say this is a safe secure home?

[REDACTED] lost 3 older children, one of which is totally disabled, due to neglect. [REDACTED] parents adopted them, and moved to Oregon, they have tried everything to get [REDACTED] to live with them, there's another concern, they live in a single wide trailer with 3 adults and three children, they live off the money they receive for the children, neither on of them are working outside the home, the 4th child died in the hospital at birth. We have taken [REDACTED] to all the doctors appointments, which [REDACTED] was told about yet she showed no interest in attending any of them. Our biggest concern is for the children, it doesn't seem like a good living conditions, in the last 2 court sessions, the Social worker said the police were called out every week. Then she started getting 48 hour visits.

During the 14 1/2 months that [REDACTED] was with us we rarely saw a social worker. We had to constantly call her when we needed something. As for a Guardian ad litem, [REDACTED] did not get one until he was here for 6 months. We saw her twice at the house and then never saw her again. After numerous attempts to contact to contact her we were finally told that we had another one. We saw her one time and never heard from her again.

We don't understand how the State can say that the mother was doing everything that she needed to do. She never got a job, a stable safe home to live in, a secure environment. She lost her drivers license and still drives with the children in the vehicle. All she did was hook up with a teenage boy whose only source of income is McDonalds, and got pregnant for the sixth time in her life.

Why is it that the parents don't have to abide by the laws. Why is it that they don't have to take classes and meet the same criteria as the Foster parents do? Why is it that the State workers turn a blind eye to the necessary steps that parents should take to care for their children? Why is it that they minimize the concerns or Foster Parents? Where is the PRIDE?

We petitioned the Judge to allow us to adopt [REDACTED] and he told us there was nothing he could do without petitioning the State.

Our hearts are broken for this young bright boy.

My story begins [REDACTED]. I received a call from my son saying that they were removing his son from the home for alleged abuse. We were named as Code X foster parents and my grandson was brought to our house that evening. He was upset and scared. He wanted to go home to his daddy but I had to tell them that he was brought to our house and that daddy knows that he is there. At this time, I won't go into the details of the case but suffice it to say from the beginning I asked them to truly seek the truth because I could not believe that my son would abuse my child. To this day, I still firmly believe that and have seen nothing that changes my mind.

The next day, I had to take my grandson to CARES where I was completely in the dark again. When they finally called my grandson's name, I went to go back with him and the nurse held up her hand and said that they were just taking him to get his weight. He didn't come back for 30 minutes or so and I was told he was all done.

From there, there was confusion about where to take my grandson for daycare and what to do. At this time he was also having visitation with his mother as well. This went on and we just started to develop a routine when my grandson was removed from our home and visitation with his mother was stopped because of suspicious bruises again. It was determined that the marks may have come from daycare so he was removed from there.

I continued to press the social workers to seek the truth and then finally on August 12th with no notice, they removed my grandson from our home. I contacted the primary social worker about why and they couldn't really give me a reason. When pressed long enough they finally agreed that it could have been handled better and notice could have been given to allow for a smoother transition. My grandson became upset every time he had to switch homes when it was unplanned and he wasn't prepared. My husband and I were not allowed visitation with our grandson either. We were not told why and had no clue as to what was going on.

Late in September, we received a letter dated September 23, 2104 that on August 12th my husband and I were named in a referral of child neglect, abuse or abandonment. It was determined that the report was unsubstantiated. We had no idea that we had been investigated or why we were investigated.

I had reported my concerns and frustrations to Richard M. Armstrong's office on several occasions. While I did receive a call back, I was told that they would investigate but as usual, received no answers or information. Just the standard response that "Due to confidentiality laws, I am unable to provide you detailed information about the outcomes of the review without a written, notarized release, signed by both of the child's parents." My son tried to find out the outcome but received no information either.

I did meet one social worker who I really felt had the best interests of the child and our family at heart. She was present during some of the questions I asked of the social workers but because she tried to help us, she was shut out of discussions held inside of the H&W team. I thank her for her work.

I believe that our grandson was removed from our home because we continued to press them to look for the truth. We would ask for what policies and procedures that they followed. We got nothing. They would respond that they were just following judge's orders. I know for a fact that they led the judges and dictated how things would go. According to the judge's guide, the process is also supposed to be one judge for the entire process. This did not happen. In the beginning of this case, there were 3 different judges. The final judge stayed with the case until the end.

We went into foster care with the intent to adopt a child. We took our foster care classes and signed up in [REDACTED]. By October 25th, we had our first placement. The social worker told us that they usually want the child to reunite with the birth parent(s), but in this case that just wasn't going to happen. She told us we would be able to adopt this child once parental rights were terminated.

When they asked if we could take this child, we didn't hesitate. This was a young boy, 23 months old. It was my understanding that this child had been in just one foster home. However, I found there was at least one other foster home and maybe another one prior to that. Two to three home before they placed him with us for what we were told "A permanent-adoption placement". We had a couple of visits at the current foster home and then we were told to go ahead and take him home with us.

We were so excited to have this little boy into our family. We even had a baby shower for him with all out family and friends in attendance. We were told that the birth mom's rights would be terminated and they located the person listed as the father on the birth certificate, and he had terminated his rights. Within 4-5 months later, we were told that they weren't sure if we were going to be able to adopt him. They had located, who they thought was the birth father. DNA tests were done and it was found that he was in fact the birth father. Then we were told that even if the father decided not to take him, that his parents could possibly want to adopt him. We were told if they wanted him, they could have him. Months passed. Every day got a little harder, not knowing if he would truly be ours to adopt.

The Department of Health and Welfare set up a meeting with the grandparents and us. They were very nice people. They said they felt it was in this child's best interest to be adopted by us. As you could imagine, we were

relieved. They told us that neither birth parent was in a position to take care of him at that time in their life. They also felt since he had already been with us for about a year that it wouldn't be fair to him if he was taken from us.

Our road was cleared for adoption or so we thought. There were times that the social worker told us that she didn't know if the parents were going to terminate their rights. The department could have terminated their rights, but chose not to. Each time we asked about it, we were shunned by the department and especially by the social worker. Eventually the social worker "had it in for us" or at least that's how we felt. She would yell at me and say she never promised we could adopt him. She may not have promised anything, but she definitely told us from day one that we should be able to adopt him and even called it a "Foster-Adopt Placement" on the first phone call.

Month after month went by. Threats of removing him from our home continued. I fought back. It was like a rollercoaster of emotions. Once minute he was ours and the next he wasn't.

I was one of the fortunate ones that actually came out on top. After endless meetings with the department, the removal of the social worker, and me telling them I was going to the state senator and to the media, that it did happen.

Eight days shy of two years, my son was legally adopted.

We continued to do foster care. We had a certain age and stated only one foster child at a time. However, the department seemed to have a way of talking us into a different age and two at a time. We fostered about 20 kids in all.

When our foster children needed something, I would contact Health and Welfare. It was like pulling teeth to get anything for my kids. When I needed someone to sign for a doctor appointment or in some cases a hospital (ER) visit, they seemed very mad that they had to go in and sign. It clearly states foster parents cannot sign any forms, but the social workers would always say – "Go ahead, it's no big deal." Yes it is a big deal, it's against the rules.

When we asked if we could take the kids on vacation, we were told we couldn't take them out of state. So much for making them feel like they were a part of our family. However, trying to get the department to find a respite home for us so we could go on vacation was very hard. One time we were scheduled to fly out in the morning. We had submitted our respite care request about five months earlier. We finally got the respite care approval the night before we were to leave.

Once there was an instance where I heard a foster child screaming, not the scream from a child throwing a fit, but a child that was screaming in pain. I reported it to the department and I was told it was my issue, the child was fine, and not to worry about it. They never checked into it. That's when I had them pull my license.

My husband and I were naive (and too optimistic) in trying to adopt from the State of Idaho through foster care. I have a friend who adopted 10 years ago (2 kids from 2 different birth families), so I thought we could as well. I thought we would be helping a local child in need, instead of going to another country. When we applied, our adoption worker said "Oh, I wish I had your file six months ago! There was a little girl I couldn't find anyone to adopt". I heard news story after news story about kids in foster care needing adoption. We asked for a child up to 4 years old, so it's not like we were being too picky. I would call and check in once in awhile and was told "We'll keep you in mind" and every year, an adoption worker would come out to our house to update our home study. For 3 years we waited for that phone call that never came.

A year-and-a-half ago we added a foster care option because we thought foster parents were given an option to adopt if the child became available. Almost a year went by with still no phone calls. Finally, we were assigned a new

foster care licensing worker who actually added our name to the list of available foster families. **Our name had not been added when we got our foster care license.**

We got a few calls about foster care, but it never worked out. Usually because they make multiple calls to families for fostering and whoever calls back first gets the child. It felt like a competition or race with other families. In the summer there was a baby born to a mother who was unable to keep any of her babies due to mental health issues. All of her babies had been adopted. I was her mother for 24 hours and was sitting in the hospital rocking her when H&W called and said they'd discovered that the adoptive mother of one of her siblings still had a foster license, so they had to offer her to that family. They only discovered the other adoptive family after I questioned the social worker about where her siblings had ended up. **They had the file, but didn't look at it before making the foster care placement with us.** A nurse had to cut the hospital band off my wrist and consoled me until I was able to drive home. That baby will be adopted, just not by us.

Two weeks later our new social worker came out to the house to update our file and renew our license. She confessed to me that our file had just been collecting dust for 4 years. The new policy was for prospective adopting families to go through an adoption agency that H&W used. **Never once in the three previous home study updates had anyone told me that they no longer keep home studies for adoptive families.** She gave me the information for the adoption agency and left me in tears.

THAT AFTERNOON they called me about a 2 year old needing foster placement. I hadn't even finished processing what I had been told and I had this pressure to decide right then what to do. So, we agreed to take her in. It was like they said "Well, we better use them before they decide to quit being foster parents."

We spent the next month fostering her while also looking into adoption through H&W's agency. It became clear that wouldn't work either. The children available were all special needs who require placements where they are either the youngest child or the only child. As a family with other young children, we would never be chosen.

At the end of that month, we got another phone call about a newborn. Her mother had told the hospital that she didn't want the baby and "didn't want to leave a name". Although they warned me they would still have to "try and find out who she was", it was implied this baby would need an adoptive family. So of course we agreed to take her and expand our license to two children. Whether they lied or just didn't have the correct information, I don't know. But the truth was, the birth mom was still there in the hospital and had just not wanted to give the baby a name, not her own name.

We were ecstatic for a few hours. We even picked a name. Four years of pain and waiting seemed to melt away. Then H&W called back saying they now knew who the mother was and that it was now a normal foster care situation. I told the social worker I'd have to call my husband to see if we still wanted to take an additional foster child instead of a possible adoption. **Our social worker told me if I changed my mind now, that it would go in our file and "you'll be done with foster care. We won't bother calling you in the future".** I was given 10 minutes to call my husband and get back to them.

I'll never regret agreeing to foster the baby. We love her. But, we were absolutely manipulated into it. Her social worker gave us false hope again after she came home to us by being elusive in her answers about when she was moving. If she was moving. And, knowing that we were wanting to adopt, the social worker brought a "permanency worker" to our house. She never said anything concrete to make me believe we could keep the baby. But she never said anything concrete about her going somewhere else either. It was always "We don't know". We just had a "sliver of hope" as I told my family. **Ambiguity is the policy** and it left us devastated when she was moved to an out-of-state family member.

I know that our story is really about how we were failed as an adoptive and foster family, rather than how our foster children were failed. My point is, the department has a lack of regard for the families that it relies upon to care for children. **We were ignored, misinformed, lied to, manipulated, and abused.**

No matter how great of a foster family you are, no matter how much you care for children and want to help their biological families reunite with them, the Idaho Department of Health & Welfare will make it impossible for you to continue. It is an abusive relationship. They abuse the biological families, (who nobody listens to if they complain), they abuse the foster families, and they abuse the children. I am just grateful that our time with our foster babies was relatively short and that they themselves weren't subjected to the trauma I read about from other families.

I worked as a Para BI, in Idaho schools. My kid I was assigned age 12 was unable to care for themselves. They lived with their adoptive parents who were at an advanced age. They originally got the child as a foster. In another state. The child often came to school dirty and smelling of rotting formula. Often in a broken wheel chair that was not his and several sizes too small. After talk to the parents about it they claimed he was becoming too heavy and too hard for them to manage. They also claimed to be trying to get him a lift and that they did have a live in care provider that comes in for their respite. After this meeting the child was taken to the doctor for rashes and appearing to be in pain during feeding. This led to a surgery on his feeding port. Which became infected and was being rejected by the child's body. I called and wrote everything out for 1 month before the school finally decided to step in and call child services. They agreed to meet us and see the child. After this meeting, the parents were called and told to fix the rashes and get the child immediate medical care. With the promise of in house visit from Child Services. After the in home visit the parents were approved and even offered to foster a baby, because the foster care system is so overwhelmed. The lady assigned the child's case spoke to me about it when she came to check on the child a week later. After asking her how could they leave the child in that situation when it was clear the child was being neglected and even if the parents had good intentions they could not provide the proper care the child needed. She said, "The foster system in Idaho can't afford to take on a child with special needs. No one will want to take and would cost too much to care for the child through the state."

We loved being Foster Parents. We made the decision to focus on older sibling groups as that was one of the greatest needs. We had two siblings placed with us, while it was decided to place the third with another family. We were all told to place all three together would be overwhelming to one family. We developed a relationship with this other Foster family and coordinated all of the visits and relied on one another to watch kids as needed.

We put both siblings in counseling to deal with the issues that brought them to Foster Care. The youngest was willing to work with the counselor and was making progress that was exciting to his counselor and us. The oldest had no interest, but he went every week regardless.

Due to some problems with schoolwork and listening/respecting us we sat this child down and explained that grounding would occur unless they made an attempt to try to complete the missing assignments. Needless to say the grounding happened and the oldest child decided to threaten to hit me. It was explained that we don't allow that in our home and if it happened, the child would not be allowed to stay.

Oldest decided two days later to make good on this threat and was removed the same night, but not before causing physical damage to our home. We thought we were going to get to keep the youngest, but we received a call to drop the youngest off with the older sibling. The reason we were given is, siblings stay together.

But remember there is another sibling living with another Foster family. They were told no when they asked to take youngest that we had. This child would have been allowed to stay in the same school, the only school they have ever gone to and was thriving there.

The Department is blaming us for this child's violent outburst and we feel the oldest isn't going to be made to address any of their issues and the youngest is being punished for it. This child lives with a sibling who had no

problem resorting to violence and has said the older sibling scared them sometimes.

The school counselor, Social worker and Teacher and the siblings GAL were all advocating for us to get the youngest back. We wanted to adopt these kids and now we can't even see them.

We do feel like the department is going to go after us. Not once have we been asked how we are or how bad is the property damage. We've made the hard decision to put ourselves in the group of former Foster parents. We will not renew our license and our home will remain closed.

I have a long extensive history with the Department. I adopted two children from foster care who had been in 17 home by the time we got them, (they were 3 and 5). I also worked for the Department as a child protection case for seven years, and most recently I am a certified Adoption Professional and I do adoption home studies. At times I do homestudies for families who are adopting through Health and Welfare. I did a home study a few years ago for an adoption. The children were placed with "fictive kin". The maternal grandfather of the children, lived with a woman who was going to adopt. The grandfather had significant health issues and couldn't adopt the children. This couple, lets call them Mary and George had been married for years and in fact had two grown children. George was married to someone else after his marriage to Mary and had a daughter with the other woman. It was the children of this daughter that were the subject of the adoption. George and Mary were not currently married but were living together. The marriage between these two ended partly because of domestic violence issues and in fact, George and Mary both had a criminal histories with domestic violence as well as child protection cases when their own children were growing up. Now Mary is licensed to provide foster care for these children and George is living in the basement of the home. George is a vet and gets benefits and is contributing to the house hold income. He just had heart surgery and had recently been diagnosed with cancer, so he was terminal and it was unclear how long he had. When the children came into care they were placed with George and Mary and have been with them for about 18 months. I did the home study and was appalled. Frankly if these people had been a random couple looking to adopt they never would have been approved. They both had criminal backgrounds including domestic violence. They had prior child protection cases. The only source of income for Mary was George and the foster care payments. So essentially no income and she would rely on the subsidy to support the house hold. It was just not a good situation. I called the Adoption people in Boise and explained my concerns and said that I didn't feel like I could approve this woman for adoption. The adoption workers said they would get back to me. They called a few days later after speaking with the case worker. I was told to approve the adoption. Again I stated that I was not okay with approval, it was my name and my license on the line and I couldn't do it. So we finally agreed on how to word the recommendation, so that I didn't recommend this woman for adoption. It was basically stating that Mary was fictive kin, the children had been placed with her for two years, and she had an approved foster care home study and license and by her adopting these children they would remain with family. Unbelievable. I did that and the state signed off on my home study and on the adoption. On adoption day in November I was in court with several families to finalize adoptions and Mary was there, and the Department finalized her adoption on that day.

I have another family that I have completed two or three home studies for. They have adopted three girls and in the process through life, had six of their own children. This is an incredible family. They have a big home, a stay at home mom who home schools some of the children. The children have chores, and responsibilities. I have talked extensively with the girls they adopted. The girls are happy, well adjusted and have done very well. The parents, Sarah and Troy have done an incredible job with these girls. The girls are all off meds, and are very successful. The oldest one graduated from High school last spring and is attending college. Their own children are well behaved, nice kids. Some of the children want to go to public school and their parents are supportive of that. The ones in public school are excelling, good grades, good behavior, no issues. Troy and Sara are very young under 40 but are truly amazing parents. They have no criminal records, no history of

domestic violence, their references are glowing. They are active respected members of the community. These are people I would leave my own children with. Recently Sarah called me and said that they have been feeling like they are missing someone. They began looking at children in foster care and found a boy in Washington State. I updated their home study (which Health and Welfare signed off on by the way) and they began working with Washington to facilitate the adoption. The child "John" was involved in selecting Troy and Sarah and their family. They have been to Washington to meet with him, and he has been to Idaho a few times. These visits have all gone well and John did an extended visit with the family over Christmas. Every thing was planned to move forward, until Idaho Foster care got involved. Washington state required a home study done by the state. So we thought this would be simple, right. Use my already approved home study, the foster care worker do a home visit and they would be good to go. I got a call after the home visit from Sarah who was sobbing hysterically. She said that the worker came out, and basically said that there was no way they would approve anything, they already had too many children. The worker then went on to state that Troy and Sarah are basically young uneducated parents and they really shouldn't have any more children. It was a horrible experience for the entire family. Now again let me say these people have nine children, and John will make 10. There are not many people with that many children I would recommend for adoption, but these truly are wonderful people. It's an amazing family with the capacity to love and support all their kids. The children are loved and well cared for. They are being taught values, and manners. They have chores, help care for the animals and do school work. I honestly would leave my own children with them. But some social worker made a value judgement about this family and decided they can't adopt.

So compare the two families. Mary, criminal and child protection history, Sarah and Troy none, Mary-Child protection history, Troy and Sarah-None. Mary's children-in and out of detention as teens and jail as adults, Troy and Sarah's children-no criminal activity one in college. And the family the state approves to adopt is Mary. I wouldn't leave my cat with Mary (and I don't really like my cat most days!) Something is completely wrong here. Also, the state didn't seem to care that John has selected Troy and Sara and family, and formed a relationship with them. Nope they aren't approving the home study or the ICPC because Troy and Sarah have too many kids and are young parents.

In my opinion and having an insiders view, I believe that Health and Welfare have too much power. Every day they make and break families. They meet as a committee and decide where children will go and who they will live with. They basically get to create families. So I think they believe they are equal with the only person who can create families.....God! It's very scary when a small group of people have so much power over so many.

I don't care to remain anonymous, you may use my name any time, and can contact me any time. Please let me know how I can help and if there is something else I can do. I am so glad you are doing this. I have talked to Senator [REDACTED] about this and got no where with [REDACTED]. Thanks again, and I want to help anyway I can.

I wanted to share our story about the adoption/foster process concerning our fourth son. He is our second adoption through the department. There are also some references to the struggles of our 10 year old son due to his adoption story as some of the challenges overlap. Often times, when one child is triggered, it will set off the other son. This does not include at all the MANY challenges that my older two children have endured due to the fact that trauma affects the entire family. Trauma comes in many forms.

In [REDACTED] of [REDACTED] when our son was about nine months old, we received a call from the department inquiring if we would be interested in adopting a baby boy. After hearing a brief summary regarding the details of his case, we learned that he had been born meth affected and that at this time the long term challenges were not clear. We decided that we would in fact, love to adopt this little boy. At this time, we were already licensed foster parents and could easily transition a child into our home. As we waited to hear back from the department, the days turned into months and we weren't sure if or when this little boy would be joining our home. Five long months passed before we

were able to bring him into our home. By this time he was fourteen months old and becoming very bonded to his foster parents and his foster brother and sister. We were very nervous about this due to the fact that we had a previous adoption where our son was with his foster parents for sixteen months and was struggling with severe attachment issues. After our son joined our home, we worked very hard to help him with attachment while maintaining a bond to his now "aunt, uncle and cousins" who were previously just his "foster family". Although this adoption went much more smoothly overall than our first, I have to question why he was allowed to remain in a foster care situation for five more months once a suitable, willing, and licensed home was found. In [REDACTED] of [REDACTED] he will have been with us for seven years. While he is a very well-adjusted child and has bonded to us as his parents and his three brothers, he is not without challenges that stem from the adoption process. As with our son, it is not uncommon for him to refuse to be away from me. I never know when his emotions will overwhelm him and he will feel that all too familiar anxiety that mama might not come back. Experiences outside of the home must be very thought out and regimented. What this looks like in "real life" is that the routine for transitioning to anything where I will not be present continually must always be made familiar and safe. This includes going to school in the mornings, trips to the grocery store, church attendance, the use of babysitters, etc. This does not include the challenges that most parents don't have to consider, for instance a dental appointment can be very challenging until the practice proves to be safe, and predictable. This would not normally seem like a big deal, but to a child who deals with this kind of anxiety even going back to the dentist chair alone, or going into a grocery store is a big deal. There are always the questions of "will someone take me?" The door bell ringing at home can trigger anxiety and often full dysregulation accompanied by a significant meltdown as the child processes through the fear of who is coming to the house? Are they safe? Will they take me? What will I do if they hurt mama? There are also the concerns as a parent, that often these children are desensitized to "stranger danger" as they are taken by social workers, police, doctors, etc. as they come in to the care of the department and are having visitations. Having said this, it is not uncommon for one of my adopted boys to try to leave with anyone who tells him their name. To him, that translates to "I know this person since I know their name." I have had to stay hyper-vigilant any time we are in a social setting. My other adopted son on the other hand is so fearful of the intentions and outcomes of being around strangers, even ones that mom and dad say are "safe and ok." He will often become so deregulated that typically a rage ensues and it is not uncommon for him to have to take medication to completely calm him down. There are challenges with vacations, going to his brothers' baseball games and just routine days at the park or the swimming pool. Trauma turns everything normal into a challenge both for the children and their caretakers. Nothing is simple or easy. You cannot just suddenly announce a surprise trip to ice cream because that will trigger anxiety. The child must know where we are going, how long will we be gone and the worst question "will we all be coming back home?" I could cite so many more daily challenges that exist in our home, but this has become our "normal" and while I would not change it for the world, I know we can do better. Not just for these kids but for our society that will be impacted for better or worse as these children either heal or sadly, end up taking their "hurts" out into society that continues to misunderstand the far reaching effects of childhood trauma.

It would be so simple to start this letter with all the factual information surrounding how RAD, or Reactive Attachment Disorder occurs and how it impacts the children involved. I want to give you a more personal look at what trauma actually does to a child, family and community. Eleven years ago, I was a younger mama with a four year old and a two year old. These two boys were our joy and they were best buddies. It was about this time that we decided to expand our family through adoption. Our little boys were so excited to learn they would be getting a new brother. With their young minds, they assumed a new baby brother would bring more of the fun and joy that they brought to each other. A new buddy to play with. As parents, we naively thought this would be the case as well.

We learned that our new son came into the Foster Care system at the age of ten weeks suffering from severe abuse that left him with a bone that had been purposely broken. By this time our son was approximately seventeen months old and very bonded to his foster parents. The Judge had just terminated parental rights and we would now be allowed to bring him to his forever home. So after fifteen months in foster care, he came home to us. We were

thrilled, our older boys were beyond excited. After six months we were anxious to be able to formally adopt him and give him our name and assure our older boys that we were going to be able to keep their baby brother. At this point he had now been in foster care for a total of twenty one months, as we were still not legally his parents. At this time, our first big surprise came in the form of notification from our caseworker that at the last minute, the birth mother had brought up the possibility of our son having some Native American heritage. This is where we became very familiar with ICWA – the Indian Child Welfare Act. So in a matter of days, we went from being so anxious to adopt our son to the very real possibility that he could be taken from our home due to the fact that we could not prove and Native American heritage was present in either myself or my husband. We waited almost another six months as tribe after tribe denied any interest in our son. Finally, after a twenty seven months in foster care, we were able to legally adopt our son. By this time he was approaching the age of three and it was becoming evident that his emerging behaviors once thought to just be the “terrible twos” were not going away. In fact, they were increasing and becoming at times frightening.

By the time he was three and a half, we sought help from the department. I contacted our case worker and explained to her what was going on and was told that he “must just not be sleeping” and to give him melatonin. We were also referred to Family Connections. After six months of in home counseling, parental support and Love and Logic training, the behaviors continued to escalate with no end in sight. We were desperate. Our two other boys grew increasingly estranged from their brother and were afraid to play with him. Once again, I reached out to the department requesting more intensive help. We started therapy and medication. All to no avail. By the time our son was five years old, he attacked me with the wooden closets rods designed to hold clothes. We again, sought help and his current therapist suggested residential. There are very few facilities that will accept a five year old. Another hurdle at that time was Medicaid, as they stated they do not pay for residential services for Idaho. I ended up in the emergency room at St. Alphonsus being questioned by CPS workers and talking about possible pediatric psych. hospital admittance. It was determined that due to his age, we would take him home with a prescription for a medication that melts on his tongue so he cannot spit it out and will sedate him when he rages. This was the first big crack in my armor. Continued weekly therapy and medication management seemed to do nothing. One time while driving to Grandma and Grandpa’s house, he assaulted me so bad in the car I had to pull into the parking lot at the grocery store and get my other three children out of the car for safety. It was freezing outside, but there was nothing I could do as he pulled my hair from behind and punched me in the face. Once free, I was able to call my husband and the police. By the time he was seven years old and in first grade, he had several physical altercations where he kicked and punched the principle, other kids, the special ed. Teacher and the continued physical abuse myself and my other children endured every time my son would rage. It was at this time that he committed his first felony against an officer, threatening to “take her gun and shoot her in the head.” I will never get the picture out of my mind of my tiny seven year old in hand cuffs. His wrists were so small, both arms fit in one side of the cuffs and left the other side to dangle behind him. My son is now ten years old. He has been let go by several therapists who all suggested residential for my son. I fought Medicaid, Optum, and more paperwork than I can remember to obtain these services for my son. This process took over a year. My son is currently in a specialized school setting with three teachers in a fully contained classroom. He has a minimum of three assault and battery charges within the first four months of the 2015-2016 school year. He has enough charges to be locked up for a year and a half. He was not with us the last two Christmases. The first one, he was in residential in Texas, the second one, he was in detention. We continue weekly therapy and monthly medication management, coupled with the ongoing services we are seeking through children’s mental health, and his bi-weekly parole visits and frequent court dates. I am not able to work due to the time involved in managing his care. My marriage has become at times, just managing our son’s rages, arrests and constant supervision. We cannot use babysitters, or leave him with very many people. Vacations and any change in routines is a sure recipe for a rage and anxiety. Our entire family now suffers from PTSD. My other children will need counseling to process all they have been through and had to give up. My boys who once used to be best buddies are now guarded to each other due to all the hurt and violence they have witnessed. They are embarrassed to have friends over in case they witness a rage. Our home has been vandalized by our son and our furniture has been destroyed by scissors, our animals have been hurt, and so far we have thousands of dollars in repairs to his room and furniture. He completely punched and kicked all the way through his bedroom door several times. Full sheets of drywall had to be replaced in his room as he punched and kicked holes

in the walls, and then urinated and defecated inside those holes and his heater vent in the floor of his room. These are just some of the very real things that we have endured in the last ten years due to this horrible thing called Reactive Attachment Disorder.

My name is [REDACTED], my husband and I have been foster parent for [REDACTED], we have welcomed [REDACTED] children into our home from respite care to emergency placements, and long term placements. These are a few of our stories. We would like to continue fostering, but at the same time our choices are to do whatever the workers tell us to do, or stop fostering. We also know if we stand up to the workers we risk losing the foster children in our home.

#1 When the twins were first placed with us at 9 months old, the Dept didn't know how long the children had been left in a single crib before the police found them. We had the babies for a year and 4 days before they went to their Grandmother for permanency. In this case, I do not want to argue whether or not the babies should have stayed as much as the awful transition the workers arranged. We knew the transition was pending, and we were waiting for the "ok" to move forward. The worker emailed us, said they would like to do a transition in the next month, she asked us to check our schedules and let her know what worked, we had also had a transition meeting about a month prior with Grandma, where we both stated, we didn't have specifics we as adults needed, as long as it was best for the twins. I received the email, and in the Skype visit that night (Grandma lived out of state) I told her that we had received an email to discuss dates that morning, so I asked her what worked for her. Grandma replied "Oh, the worker already sent us our plan tickets we will be there next weekend (10 days) to pick up the twins" After emails later with Grandma, we had discovered the Worker had not asked the Grandma either about the schedule, as the Grandma was in the middle of a remodel project..... So not only did Grandma end up with the twins abruptly, she also had new to her toddlers, in the middle of a house remodel and her husband would be out of town for work for 3 weeks. The worker had told us there would be a 4-7 day transition period during our transition meeting, but in reality, we had 1/2 day. Grandma flew into town late on a Friday, we had time together with them and the boys on Saturday, and their flight left very early Sunday morning. These boys, who knew us as mom and dad for a year, were passed off in one day, never to see us again. I believe if the workers had followed through with what they had told us- letting us pick the transition dates, as well as followed through with a 4-7 day transition plan it would have been better for the twins. When we buckled those boys in to their Grandmother's rental car, they looked so confused. They were 21 months old. I can only pray that they do not have lingering issues with abandonment, as they already had lost relationship with their birth parents, then they had their second parental relationship severed without a proper, and promised transition.

#2 Two days before Christmas 9 year old N arrived. She had originally come into care in [REDACTED], and had been living with a step mother on an extended home visit when it was decided she needed a safer home. Initially we were told it would be a 2 week respite situation..... it turned into 10.5 long months. Out of state family had already been contacted and working the ICPC paperwork. In the meantime N had weekly visits with her Grandfather, a [REDACTED] the Dept was aware of, but insisted the family bond was more important than the risk. The safeguards put in place were that he had to do visits out in the community, and have another adult with him. 8 months into the case, birth mom found out which relative was going to be the permanent option for N, and birth mom was unhappy, this relative had adopted 2 of 3 previous children she had lost rights to. Birth mom insisted she would now start her case plan, 8 months late, and in the meantime tried to get her own mother to get certified to get N (in other words, she didn't want N, she just didn't want the other relative to adopt her) The worker supported birth mom, instead of pushing for early permanency. At the 12 month review, N wrote a letter to the judge stating she wanted to live with the out of state relative. Birth mom did not have place to live, or had been appropriate enough to obtain unsupervised visits- all conversation had to be within earshot of the visit tech. Even still, the worker asked for an extension for birth mom's case plan. At the 12 month point, this poor child, did not want to live with her mother, she had the strength to tell the Judge and had the opportunity to be moved to a relative, and be reunited with her sisters. Instead the worker dragged out the case, N was forced to remain unsettled for another 3 months, start another school she knew she wouldn't be able to attend a full school year at instead of being with her adoptive

placement and start the bonding, and attachment necessary to her healing. Every time we went to court and the Judge and Worker agreed to continue working with birth mom, N's heart would be crushed. All she wanted was to be with the family that wanted her.

#3 T came to us in [REDACTED], he is 2.5 years old, and we are his 4th foster home and he has been in Foster Care for 2 years. A year ago DHW decided to terminate the Parental Rights of his parents. A permanent home has yet to be selected for T, they are still searching for a relative placement for T. Three times the Dept. has had scheduled TPR Trial dates in [REDACTED], none of which proceeded for different reasons. In the meantime, there is no end game plan for T to get a family. There is no guarantee the Judge will proceed with the next TPR trial, there is no set date for a selection committee to pick out an adoptive home (relative or non-relative) for T, there is no deadline the Dept is holding to stop searching for a relative placement and seek out an adoptive home so T can have a family. So we wait and see. We are willing to be an adoptive placement for T and although we understand the relative placement policy, how long will they search before saying this child's need for a family now, for attachment now, for his healing now, is more important?

I was placed with FOSTER SON at two days old [REDACTED]. He tested positive for methamphetamine. FOSTER SON's biological mom was inconsistent in her visits. After only four or five visits in his first five months she disappeared. FOSTER SON was not a typical foster. He did not leave our home several times a week for visits. FOSTER SON had a handful of visits with his biological father in [REDACTED] before he decided he did not want to pursue reunification. During his first year the department looked into family placements in [REDACTED] (another state) (maternal) and [REDACTED] (another state) (paternal). I had contact via email, phone and in person visits with FOSTER SON's aunt in [REDACTED] who decided not to pursue adoption of FOSTER SON because he already had a strong attachment with our family. In late [REDACTED], early [REDACTED] I was informed by the department the Aunt in [REDACTED] did not want to adopt FOSTER SON. In [REDACTED] FOSTER SON's half sister was born and placed with our family, she also tested positive for methamphetamine. FOSTER SON and FOSTER DAUGHTER are 12 months and 3 weeks apart in age. There was an immediate and intense bond between these two babies. [REDACTED] also brought termination of parental rights in FOSTER SON's case and an adoption committee meeting was held to select our family for adoption. In [REDACTED] I received a phone call from the department that FOSTER SON was possibly Native American and we would now have to wait to hear from the Indian tribes before proceeding with his adoption. They also informed me they had contacted the Aunt in [REDACTED] and was told she now wanted to pursue adoption of FOSTER SON. At this point, FOSTER SON was 17 months old and had only known one family and one mother. He was completely bonded and attached to our family including my son, Brody as his sibling, and our extended family. One week later the department called and said central office had decided they would not allow the family in [REDACTED] to complete an ICPC as FOSTER SON's adoption selection had already been complete and he had been in one family for his entire life. In [REDACTED] on a conference call with several department workers I was informed the department had changed their minds and was requesting an ICPC from FOSTER SON's aunt in [REDACTED]. I was told there was no avenue to fight this decision. At this time FOSTER SON was 19 months old and had never had any contact with this family. One week later FOSTER SON and FOSTER DAUGHTER were removed from my home and placed for two months with another amazing foster mom. During our separation FOSTER SON stopped talking and signing. He was sad, anxious and confused and tried to self soothe with food. He often moaned and cried when with others. Upon their return to my home [REDACTED] FOSTER SON quickly returned to his happy self. The department funded four trips to Boise for FOSTER SON's Aunt. Every visit created more stress for FOSTER SON, especially when the department would restrict all contact between FOSTER SON and our family, and insisted we start calling him [REDACTED] (another name). FOSTER SON became physically ill during or after each visit. In late [REDACTED] I was told FOSTER SON would be moving to [REDACTED] before Christmas. The department created a short five-day transition between FOSTER SON's only home and family he had ever known and a hotel room with his Aunt. During Skype visits he has asked to come home. He asks repeatedly for FOSTER DAUGHTER, Brody, Grandma and other family members. He has gone from testing out of the infant toddler program to weekly speech therapy due to regression from the trauma caused by removing him from his family. FOSTER SON has no

contact with his maternal biological family and the department no longer requires the aunt to continue contact between FOSTER SON and Brody and I, his family since birth.

The date you received the child. How long the child remained with you? - We were called by our social worker on [REDACTED] to take him in at the age of 1 day. Child was in the hospital where we visited each day until he was able to come home with us at 9 days old. He stayed with us until one month before his second birthday.

The date the child was removed from your home. - He remained in our home until [REDACTED], when the department gave us 3 hours to deliver him to his "new family". We then drove him to H&W in CDA where we delivered him to complete strangers and were given one hour to give the new family information about "our baby" and then were asked to leave.

The reason the department gave for removing the child. - The department told us that another family had been chosen to adopt him at the adoption selection committee. One month prior to the adoption selection committee meeting we attended his parental termination hearing and were asked under oath if it was our intention to adopt him. This was absolutely our intention and our understanding as we moved forward. This was also the plan the department had given us.

Did you receive the child back into your care? If so, why? If not, why not? Yes, we received the child back in our care exactly one day short of 6 months later. We were told the other family were having personal issues and were unable to continue with adoption. Moving him back into our home was not what we expected. During the time he was gone we filed motions to have him returned, we went to the media including several radio stations, 3 local newspapers and a local television station. During this time the department was given a gag order and both the department and CASA refused to talk to us. We were also turned away several times when trying to renew our home study.

Are you aware of any repercussions that have come to the child because of the actions of the department. - He suffers ADHD, PTSD, and RAD, all of which come with many repercussions of their own. [REDACTED] struggles at school and socially.

Where is the child today? Is there any information about the child that would help us understand how they have been affected? - He is in our home since the other family gave him back to the department, although the other family was unaware he would be moved back into our home. Attached testing and plan from counselor.

We got a call from the Department of Health and Welfare when FOSTER SON was about two weeks old. They informed us that he was in the NICU and born addicted to drugs. For the next two and half weeks we visited the NICU every day spending hours holding and helping him feel nurtured and safe. The nurses were astounded at how quickly he began to show improvement. "All he needed was a little love," they told us. Home health nurses would visit our home the next few months of his life monitoring his progress. They credited his rapid recovery to a safe, loving, and nurturing home. We felt good about the service we were able to render this little boy. FOSTER SON made a full recovery and within two weeks after coming to our home was off the drug-weaning medication.

Early on it was reported to us that an out of town relative had been selected to adopt FOSTER SON in the event that his mom's rights were terminated. While we would have loved to adopt FOSTER SON, we were in support of the relative. We facilitated multiple skype visits each week as well as monthly visits when the relative would come into town.

While FOSTER SON was an infant, these week-long visits at the hotel worked well. As the child got older he began to return from these visits more and more disturbed and aggressive. We reported these reactions to the caseworker with the hope that a modification to the visits would be explored to better ease FOSTER SON through the transition process. The department ignored our request and concerns. After firmly stating the need for them to evaluate how they were conducting the visits our case-worker threatened to remove FOSTER SON from our home if we couldn't support the department's decisions. We felt alarmed that the department was unwilling to make minor adjustments to accommodate FOSTER SON's changing needs.

Shortly afterwards, when FOSTER SON was 14 months old he went to his usual visit with his birth mom. When we said goodbye to him that morning we had no idea the grief we would experience that day. At the time he should have returned from his visit we were informed that he would not be returning to our home but was to be placed in another foster home. We were sick inside. Sick for what FOSTER SON was thinking. Where was he? Was he scared? Was he confused? Did he think that we did not care about him? What was going through his mind? These questions haunted us. While he was not our literal son, we felt as much concern for him as we would one of our own children.

After 14 months of living with the people he believed to be family, the department knowingly, purposefully, and premeditatively severed that bond. We found out later, that a week before they removed FOSTER SON from our home, a group of supervisors met and decided to remove him without any notice to us, the birth mom, or the guardian. They did that knowing full well, in violation of their own research and internal protocols, how devastating it is on a child to have those bonds disrupted.

From the Idaho Child Protection manual it states, "We now know that multiple moves can break the bonds of trust and attachment formed by the child. Consequently, multiple moves harm the child. Multiple moves compound the original trauma of abuse and neglect, often leading to long term adjustment and attachment difficulties." And knowing all this, they removed FOSTER SON to another foster home.

In the months following, the reasons they gave for taking FOSTER SON from our home changed many times. We met with the department after this decision pleading with them to place the child back in our home for FOSTER SON's own sake, which they rejected. Through facebook the new foster mom contacted me wondering how to care for FOSTER SON and his special needs. She shared how he was feeling and doing and described a boy that we did not recognize; inward, sad, empty, sullen, withdrawn. Those words did not describe the boy we knew. FOSTER SON was vibrant, cheery, goofy, fun loving, happy and excited about life. Everyone that knew him called him the happiest baby they had ever seen. He was always smiling and full of energy.

Even though the department has removed FOSTER SON from our home, FOSTER SON still feels and thinks that we're his family. It is the height of arrogance that a bureaucracy thinks they can terminate a meaningful relationship with an order. Just because they made that relationship end didn't mean it ended for FOSTER SON. He has suffered and continues to suffer because of it. FOSTER SON is still in the state and still living with his other foster family. We have been privileged to get to know them. As wonderful as they are, FOSTER SON knows who we are and continues to feel a strong connection to us. These bonds are real and when they are broken there are real consequences. We currently continue to support FOSTER SON the best we can. For the last five months, once or twice a week we take FOSTER SON for a day. My husband takes work off, the kids forego their usual schedules and we spend that entire day with FOSTER SON. We drive him back in the evening, hand him to the foster family, and have to look into his eyes as he cries and reaches for us and then we walk away.

My husband and I became foster parents in [REDACTED]. After participating in PRIDE training, we were so excited to become a part of something much bigger than ourselves, especially since the training emphasized that we would be part of a team that would work together for the well-being of children in foster care. PRIDE also emphasized the

importance of continuity, stability, and permanence for these especially vulnerable children.

The following year we fostered an infant. He came to us as a newborn, directly from the hospital. Several months went by and a woman from [REDACTED] came forward, saying she wanted Baby D. She had previously adopted two (of eight) of Baby D's biological siblings. We voiced our concerns to the department, which included the fact that Baby D had bonded to us, as well as the fact that the family in [REDACTED] had five children in the home, two of whom were under the age of five and both had FAS (one with severe handicaps requiring constant medical attention and multiple therapies) as did Baby D. We were concerned that his needs could not be adequately met. The GAL assigned to the case began to express similar concerns to the department, as did the county prosecutor. At that point, the department completely turned on us. They were openly rude and disrespectful to us, though we had only ever politely, respectfully tried to talk through our concerns with them. They refused to work with the GAL at all; the situation became so difficult that the GAL was given an attorney to represent him in hearings. During that time, we did everything the caseworker asked us to do, including extremely difficult interactions with the family in [REDACTED]. When we asked the caseworker to please help us facilitate appropriate visitations with the other family, she told us to 'figure it out ourselves since we were adults'.

When Baby D was nine months old, the courts granted the department's request to have him placed in the home in [REDACTED]; however, since it was over state lines, the department could not actually move Baby D to their home until another hearing could be scheduled to get approval for an out-of-state placement. Workers on the case were so angry and frustrated by that time, and their treatment of us became a terrible reflection of that. They grew tired of waiting for the out of state approval to move Baby D, so they abruptly removed him from our home and placed him in a foster home hours away from us. He had never met that foster family. He had only ever lived with us and was absolutely and completely attached to us. There was zero attention given to how this would affect this little person, to one day just be removed from his family and never see them again, and be placed with total strangers, all for expediency! The department would only have waited two-three weeks, and Baby D could have at least been spared what must have been exceptionally painful and frightening. All I have been able to think about in the two years since, is how utterly abandoned he must have felt. My heart is forever broken for him, and the unnecessary pain he has suffered.

We did not continue as foster parents afterwards, even though many in the department said we were among the best foster parents they had, and they wanted us to stay. We could no longer participate in a system that bullied its way over foster families, court appointed guardians, and the very children they claimed to care for.

Our son was placed in our home at 4 months of age. His mother had passed away that day and his family asked to have him placed in foster care. Within a short time a family from out of state expressed interest in adopting him. The department worked hard to make the move. He went to live with them after being in our home for 5 months. Three months later I received a call from the adoptive family saying they were not going to adopt him and were bringing him back to Idaho in a few days. I stated, he is coming home to us. This is when I was told the department had found another adoptive family. I was stunned that this was the first I was hearing this. I promptly called the case worker. She informed me that indeed another family had been chosen. I asked why we had not been asked if we would like to adopt. She said she had spoken to our licensing worker and understood that we never intended to adopt. I explained that we did not go in to foster care with that intent. However, given the situation we would like the opportunity to adopt him. I was told the decision was already made and it was too late. My heart was broken. My husband and I discussed the situation that evening and decided I would call our licensing worker in the morning. We both felt strongly that he needed to be with us. We couldn't stand the thought of him having to go to another home. I called our worker. I expected her to know why I was calling. She seemed confused. I explained what had taken place. She told me that she had not talked to the case worker. At that point she offered to take our case to her boss and above. Over the next day and a half meeting were had. I received a call from the case worker saying he could come home to us. BUT...not to think that it means we will be allowed to

adopt him. I expressed how happy I was he didn't have to go to another home. She told me he wouldn't remember us. She even asked if we had any animals. I said, yes a dog. She said, good he will remember the dog. Two days later our son came home. As soon as he saw me he reached for me. My daughter and I gave him a bath that night. When I took him out of the bathtub he said "mama" for the first time. Remember he is a year old! He had never said that before. I knew then he knew who I was.

The first time the case worker came to the house after our son came home she dropped a bomb that he has 12 year old half-brother. This had never come up the five months he was with us before. She explained that if we didn't agree to visits they probably would not allow us to adopt him. This was the tone for the next 9 months until the adoption was final.

Now to do my best to explain the impact this has had on our son and family. When he came back home he had skin issues that he did not have prior. He had an open sore the size of a quarter on his back that the other family was treating with steroids. It would not heal. Our dermatologist said that it was due to stress/anxiety. We now have three different kinds of creams to use when he has flares. It took about a year to resolve the initial skin issues. Now the pop up here and there.

The biggest thing we noticed when he came home was there was no light in his eyes. (this is where it gets hard to explain on paper) He had no emotions. Our friend, who has a child with RAD looked at him and said she would not allow anyone to touch him. She explained he needed to attach. We limited him being around people other than our immediate family for six months. If we were going out I always wore him in a carrier. We didn't let anyone else hold him. I did all of his care. It was exhausting. This was very difficult given the fact that our other two children were teenagers. Going to school, church, and other events as a family was a thing of the past. The results were slow. He did not start showing emotion until he was 3.

Our son was enrolled in the infant toddler program until he aged out at three. At that time they said he would not qualify for the preschool at the school. We agreed and sent him to a private preschool. This is when we saw his attachment issues. The preschool was not able to understand or deal with his "quirks". In order to feel secure, he attaches himself to objects. He would always want the same car. Therefore, they hid his favorite car which took his security away. This had snowball effect. We decided to take him out of preschool and seek professional help. He began seeing play therapist once a week. The therapist recommended that we had a neuropsych test done. The therapist worked with me and our son on teaching him emotions. He could not tell you how he felt. He always said he was happy. And he had no idea that other people had emotions other than happy. We also worked on correct behavior with strangers. He would ask to get in strangers cars. And touch people at the grocery store. He still struggles with strangers. She explained to me that he is emotionally half his chronological age. We worked on what that looks like and how to deal with that in daily life. We saw this therapist for 1 ½ years.

In that time when he was 4 we enrolled him in different preschool. This preschool only had six children. There were two teachers. It was difficult for the teachers with him. They were understanding with him and made it work. He is now in kindergarten. He is doing better than I expected. Yet, he is on a 504 and is defiantly not emotionally with the other children. He often does not want me to leave because he doesn't think I will come back. It is heart breaking. I reassure him that mommy always comes back.

Daily life is so different. Going to the store he needs to know he will be safe and I will not leave him there. He has to know when will daddy be coming home. Are brother and sister ever going to come back from college? When we take a trip he asks if we are going to leave him there? Or is someone else going to be living in our house when we get home? He has often told me he didn't like being a baby that it was scary. When his siblings have friends over he tells them he loves them and cries when they leave. (this is getting better, still a work in progress) He asks me daily who parent helper will be in his classroom. (he always needs to be reminded he is safe)

Family vacations go like this: the way there he wants to go home, the first night he doesn't sleep, the next day he doesn't want to leave the room, that night he throws up before going to sleep. If the trip is longer than two night he doesn't want to go back home.

I wish I could explain better what it is like to watch your child struggle with not feeling secure. It hurts that he doesn't know that he isn't going to another home. It causes anxiety in so many ways I can't express them all. Eating, sleeping, playing with friends, school, church, sports, learning, everything!

We got the call to take 2 ½ year old, identical twin boys in to our foster home in [REDACTED]. Approximately 3 months later the caseworker asked us to consider adoption as the biological parents were failing to meet their goals on the case plan. After family discussions and prayer our family was excited to say “yes” to being the boys’ permanent placement. However, at about 15 months in to the case it was decided that the boys would be reintroduced and transitioned to their biological parents. Right from the beginning of a visitation schedule, we knew things weren’t right. We suspected drug use and reported it. However; 17 months later they were placed back with the biological parents, along with their little brother who had been in the same foster home since birth and was now 22 months old (he knew no other parents). They also had an older sister who was also living in the home. My husband and I forged a relationship with the biological parents determined to mentor them for the better of the boys and their siblings. Sadly within months they were evicted from their apartment. We got word that drugs were still an issue. The parents allowed us visits and even asked us to babysit and do a few overnight visits on some weekends. We bought food, clothes, and shoes for the boys, hoping to improve the situation. The mother seemed increasingly mentally unstable and we suspected spousal abuse based on stories the boys would tell us when staying with us and the injuries their mother had such as bruises, black eyes, and knocked out tooth. Their trailer smelled of feces, as there apparently was issue with their septic. The twins entered kindergarten and they missed so much school that they had to be transferred to a special class because they had gotten so far behind. Apparently getting them to school by noon for ½ day of school was too much for the parents who complained they were overwhelmed. Finally 14 months after being placed back with the parents we got word that they were being placed back into foster care with us. I already was babysitting them that night at my home. The judge was to sign the order the next day and they would reenter into foster care at our home. However, the biological grandmother saw me the boys at the store, and took them out of my cart and left with them, angry that I was being allowed to babysit. The caseworker told me that she would go get them the next day after the order was signed and bring them to us. That never happened. The caseworker decided to place with biological grandparents despite the fact that she previously had allowed visitation with the parents without the approval of the department and had a previous arrest record for injury to a child. In addition, the department hired an attachment specialist to see where they had parental attachment and it was found they had attachment with us, none the less they were placed with the grandparents and adoption was to take place [REDACTED]. They lived with the biological grandparents for a full year before she was arrested on DUI charges with a child in the car who was not belted (not one of the twins or little brother). The DUI charges came five day prior to the final adoption court date. They were finally placed back with us following the arrest and later adopted.

However, the department’s handling of the case left as many emotional and mental scars on the children as what the parents had done!! They are now 11 years and still struggle with nightmares and abnormal fears for boys their age. One of them struggled to self regulate requiring counseling. The other one pulled his hair and eyelashes out due to anxiety. They both have had counseling as a result of the trauma of the department forcing a sibling bond by placing them all together for 2 years with the end result of them being back in the foster homes they started at and the sister still living with the biological grandparents. They were very behind in school because of all the missed kindergarten and lack of help while with the grandparents. It took 3 years of hard work to get them up to grade level. During their time with the parents they witnessed and can recall, drugs use, drug manufacturing, the selling of drugs, and domestic violence. During their time with the grandparents they were locked in the basement for punishment, the biological mother was allowed to come and go as she pleased, leaving them very insecure about when they would see her next. At one point she lived in the basement of the grandparents house, though the boys were told not to tell anyone. One of them has memories of pornography movies being played in the homes. All of this could have been prevented by requiring the parents to follow every part the case plan and following up to make sure it was truly being done. At one court date the father lied about the mom completing drug rehab (which she had left before completing) and lied on why he was unable to keep a job. The facts were easy to follow up on but yet the department chose not to present the fact or follow up on said stories. It sickens me to know that these beautiful twin boys had to endure so much beyond what they had already gone through just because the department was so determined to reunify and then later place with biological family. Obviously the decisions made WERE NOT in the

best interest of any of the children in this case and there it has left scars. Please call me with any further questions on our case. I am happy to do whatever it takes to assist in changing the laws as to reduce the amount of trauma kids must endure.

My husband and I were fostering an 18 month old, we got him when he was 3 months old with a broken leg, he is a kin to our children, he was returned to his mother [REDACTED]. The social worker has told the court system that she was working her plan, we are totally dumb founded to this, she is still married, she is living with her boyfriend in a trailer that has no running water, they live on property of some friends. She has sense had another child and has had 3 adopted before our little guy came to us, we gave him a wonderful life, lots of room to run, lots of toys, lots of love, we care deeply and have a real bond with the child and now he is gone, we are devastated, she is now working and the boyfriend has a somewhat job. We saw a guardian ad litem twice in the 15 months we had him, we were the ones that was up all night with him when he got sick, she never showed up to one of his doctor appointments, our whole family love him, we saw him in court, he stunk, like he hadn't been bathed, he dug through my purse and ate some candy like he was starving, we were told they were dealing drugs, and none of that was checked out. The social worker stopped working with us. We would love to see something happen to help us and all the children that are not being treated right.

I am from Idaho grew up in Boise and Eagle area. I believe that what you are all fighting for is right. I also think that parents who get their kids taken by Social Services should have a time frame of working to get their children back. I also believe if they don't reach those goals that the foster parent should have the right to adopt the child. I believe that some people are using their kids for benefits of food stamps, free housing, cash assistance, and many other things. I believe that this why their is abuse and neglect to scare the children to not say anything cause these parents loose their piggy banks. I have seen people get section 8 housing and have a 4 bedroom and loose their children but not their housing when a family who does love and care for their children need it and would appreciate it more. I feel so sadden that Idaho knows this is the reality of it all and has let it go. Start drug testing for food stamps, and housing, and cash assistance and do it randomly. We need change for our kids. We need to protect them cause if we don't who wil. Fight cause I support change. I was a kid that was in the system too.

My story is this: about 3 years ago my 2 nieces were taken from their biological parents and went into the system. At the time nobody else in our family was able to take custody of them. So they remained at a foster home for a short time before the state began their push for permanent placing and adoption. A couple who knew the foster parents from church had fallen in love with the girls and decided to just attend the permanent placing meeting and ended up leaving being that placement. Shortly after the meeting the girls were moved and have been living with this family since. I want to say it has been over 2 years just since being with their permanent family. This couple is such a great couple and the youngest of the girls barely being 3 when they were taken only recognizes them as mom and dad. They attended all the meetings and had even attended meetings that they were told were for the adoption process. The official court date for adoption was to be end of January. Well just before the court date the state informed them that the girls would be removed from the home. No reason given. So the couple has gotten an attorney and is trying to fight this, but at court they were basically told the judge couldnt do anything.. so they will be going to another court this week with their attorney and also a judge appointed representative for the girls aside from guardian at litem. We are all confused and lost at why the girls were taken and the states plan is to put them back into foster care.. I know this is a long message but I reach out for advice and also for support to stand with your cause! They are hurting kids that already have been through too much!

I am glad that there is a group banding together to get foster care reformed. I licensed homes for [REDACTED] years, until I retired in [REDACTED]. I was [REDACTED] licensing homes [REDACTED]

There are foster parents who work as peer mentors and trainers who have been told to keep their mouths shut and to not get involved in this "fight". So just know that you may have some advocates who are not being allowed to speak out.

Also, there is a judge in [REDACTED] County, Judge [REDACTED], who is really mad at the Dept. right now due to possible lying in reports and on the stand, He might be an interesting person for you all to contact.

Please know that I need to keep my name out of this due to ongoing relationships with foster parents who could end up with a problem if my name gets out, You can contact me by messenger though and I will help if I can.

This could not have been addressed at a better time. I was a foster parent from [REDACTED] until [REDACTED] of my 6week old grandson at the time until he was 13 months old with very minimal contact with his biological parents after being taken from the only family he knew (my family) and being placed with complete strangers and into a drug infested abusive home. I'd love to share my story. I told myself after experiencing what I did as a grandparent foster parent I would never foster another child through this state again. I was used and mistreated and most importantly my grandson now suffers now from ADHD, behavioral issues and separation fear. He is under the care of many specialist and treatment weekly to help with the life long scars he has to now live with. They are destroying these innocent hearts with their current process and guidelines. I fought for my grandparent rights and after a year the judge honored them however I can't ever imagine having to put anyone through the pain heartache and suffering I went through as well as my grandson. It's a very sad system. Do I send you the story here?

The complete story of how I ended up in foster care is lengthy but will try and explain in a shorter version. If you feel you need additional information please contact me. I have been speaking out for years but has always fell on deaf ears. When I was about a year old my father obtained full custody of both my sister and I. She was about two and half. We moved several hundred miles away for work. He worked rotating shifts because of the work he did. Two weeks each, days, nights and graveyard. Due to this schedule he met a family that was willing to help him take care of us. They set up an arrangement where us kids would stay with this family during the week and with our dad on the weekends and he could visit whenever. This arrangement worked well and continued for about five years until we were seven and nine and he died in a work related accident.

According to the court documents I've obtained, an aunt decided she wanted us and within a month and a half CPS opened and closed our case granting her full guardianship with the exception that we would get to spend part of our summers with the other family. Our new guardian took it upon herself not to follow the court order after the first summer visit. We were told they didn't want us to come any more and that they didn't love us but only wanted us for our trust funds. Also, in the document from CPS it clearly states they had no intention of following up on us after the guardianship was granted. I began running away within the first year of placement and was returned several times by police and told to be a good girl and that I should be thankful I had such a caring family that loved me and a beautiful house to live in. They like so many others wouldn't listen to me, I was just a child and didn't know what was best for me. Even at age seven I knew I didn't like to listen, watch or be the target of the abuse that when on in that house. Even at a young age I knew it wasn't a healthy environment. My sister and I never experienced that kind of behavior with our father or the other family we lived with.

It wasn't until several years later that CPS agreed to become involved again, which seemed to take an act of congress. My sister ran away and reached out to the other family for help and they stepped up knowing they could get in trouble with the law. They drove hundreds of miles to pick her up and then filed for custody for both of us. When we went to court the judge CHOSE reject all of our alligations toward our guardian and her family even though she admitted to them in court or at least she admitted to it after she tried to down play everything. According to the court document, she stated that refused to let us live with this other family and if we did not want to live with her she would allow us to be placed into foster care but also stipulated to the court only if it was in the

ADA county court jurisdiction. We still chose not to live with her so the judge granted her wish and punished us by placing us into separate foster homes with her guidelines of it being in ADA county. We never lived together again and the separation separated us to a degree. However, I must note that though we were now in the states custody she retained guardianship over our trust funds which meant we never escaped her because we had to go to her for anything, lunch money, school clothes, etc.

I entered foster care when I was 15 almost 16 my dad sexually abused me and my mom passed away leaving me and my 4 siblings. I turn 20 on Sunday and I aged out when I was 18. Me and my siblings weren't able to get adopted because the state didn't allow it we had a family who loved us and took us all in as theirs. They had issues against my foster mom making it seem like she was the problem. I was put in a mental hospital two weeks before my 18th birthday and was told my foster mom didn't want anything to do with me that she didn't want me to go back to her and not to call her which was all a lie they had told her I was the one who didn't want anything to do with her. I was in there for almost 9 days because I had no where to go my case worker would visit me in there and tell me I would have to go to a shelter home for homeless. My little brother who is still in the system has suffered because the state refuses to do what we think is best for us. Having a family who actually cares and wants you to be apart of is hard to find and when we did we got it taken away from us. I think it has affected all of us tremendously because we have struggled to make it without a mother or father figure. I would anything to go back to having my family together where we belong.

We met with the Department and they really can't tell us why they took the children from our home and placed them in a home where they are sure to endure a life of abuse and neglect. We loved them and cared for them for two years, ten months, and seven days. We were promised we would be allowed to adopt them, but that never happened. The head of IDHW can't possibly conceive that the case workers made an error as he stated he has been up and down this state and none of his social workers would ignore children on their case loads. My claim was no one has ever talked to these children about how they are, what they want, or even knew them. The Department would not make such a horrific mistake. He feels our experience is not typical of how people feel about the department. He said he knew the workers involved personally and they would never harm children. We were promised so many things and we did everything asked of us. The children ages 3 and 6 knew us as their family. They were told by the caseworker we would be adopting them, but it didn't happen because Supervisors who never met the children decided a distant cousin should adopt the kids. We reached out to the dept heads, the governor otter, his wife, senators, and lawyers. No one could help us the state went against the Judges ruling to not remove the children, but that didn't matter to the dept. the CASA was also in our side, but hi opinion didn't matter either. We got one visit with the children they begged to come home, I can still feel my little boys sobs on my chest as the case worker told him no. My little girl asked if I would go to the cemetery and put flowers on her grave to remember her. I later ran into her at school she asked me if I was still trying to bring her home, and that her new Mom and the department told her we were the bad guys and she couldn't hug me anymore. Later that week I got a letter from the department that I was not allowed to have any contact. When we see their sad faces at Walmart we have to look away, just because we didn't agree with the department to change their permanency plan. The children are doing poorly in school and are treated poorly by their new family, but the department doesn't care. They have no interest in doing what is best for children. Case workers told me if they disagree with a supervisor they could lose their jobs. There are no checks and balances, new legislation protecting our most vulnerable is long over due. Not a day goes by, that I don't think of those children and what that little boy was thinking when he begged me not to give him away. I didn't have a choice.

Hi, I saw the KTVB news report about what you are trying to do. I was a foster child for 6 years. I saw many children come in & out of our home. It broke my parents heart, every time one of their foster children was removed. The H&W is definitely broken and needs fixed. They wanted to adopt me & I wanted to be adopted, but H&W wouldn't

allow it. They wanted to put me back in a home that wasn't safe for me.... Just like many of my foster brothers & sisters that did return. The same thing happen to you happened to their kids.... Removed! The kids Their lives... Didn't turn out good. I rebelled and I wanted to make a choice about my life and what I wanted. I wanted to be adopted, be loved, be wanted, be a part of a FAMILY. The system didn't care, I was just a case file about a girl who was raped & sexually assaulted for years by her moms husband, and physically & mental abused by her mother for 12 yrs. I was just another file in the stack of thousands. My rebellion and anger coast me my family. In the end (30 yrs later) with time and hard knocks. I grew up and realized my parents, [REDACTED] changed & saved my life. There needs / has to be a change to the broken system. I was a lucky one, but so many were not/are not. You have my support!!!

Our two biological sons were placed with us at 3 months, and four years old. After two years of living with us we started the adoption process. Suddenly, out of no where, a biological aunt who had never met the boys, decided she wanted them. Despite being the only parents our younger son had ever known, and despite the fact that our older son (who had major neglect and abandonment issues), had finally begun to trust again, Idaho Health and Welfare decided it was in their best interest to have the aunt adopt the boys. (We were so close to the end of our adoption process when this happened!) We fought hard to keep them. We called for a meeting with H&W. We met with attorneys. Nothing mattered. We had no rights! Within days, the boys were on their way to Washington State. Three months later, Idaho Health and Welfare called to tell us the aunt didn't want them anymore. They were "too hard"...

My wife flew to Washington the next day to get our boys. Nine years later we are still dealing with the affects of that decision made by Idaho Health and Welfare. Neglect, abuse, and abandonment all occurred within those three months. Our boys were home during the day with my wife here in Idaho, but while in [REDACTED], they were in daycare 50-60hrs a week. The aunt thought our baby was too chubby, so she withheld food from the 2 1/2 year old. He has hoarding, and impulse issues to this day because of it. Our older son doesn't trust, and has relationship issues to this day. He has been diagnosed with Reactive Attachment Disorder (R.A.D.), Disruptive Mood Dysregulation Disorder (D.M.D.), Impulse Control Disorder (I.C.D.), Attention Deficit Hyperactivity Disorder (A.D.H.D.), and Obsessive Compulsive Disorder (O.C.D.). Our family struggles with these behaviors daily.

Our daughter came to our home right after her first birthday. (Her 2nd foster placement.) We also took in her biological brother who was 4 days old. She was removed from our home to live with her maternal grandmother 5 months later. (Our son remained with us because he was a very sick baby, and had Down Syndrome. The grandmother couldn't care for him.) Our daughter was returned to us a year later when grandma realized a little toddler was a lot of work.

Idaho Health and Welfare made a terrible decision in each of these cases! In many states, as soon as a child has been in a home for a certain length of time (6 months, 1 year, etc.), the foster family gains greater rights over the child than a biological relative. We would love to see something like that in Idaho's law! This summary doesn't even hit on all that we had to go through, and put up with as foster parents. It is far beyond time for a change in Idaho's system!

With kinship placements, the permanency time frame is apparently not enforced/different . We had our granddaughter for 22 months (her 3rd time living with us, 1st as a foster child). She had spent over 2/3 of her life with us. Diagnosed RAD, PTSD, Anxiety disorder, and SPD. Parents were not following their plan, not going to her therapy sessions 2x a week, inconsistent on visits, and the plan was to adopt. A new caseworker and suddenly she wrote a new report and the day of the termination hearing, they went for reuniting. They also changed judges for this hearing. 2 days later, my granddaughter was placed back with her parents. The caseworker supervisor also discontinued her play therapy and ignored music therapy recommendations in the final weeks. Even the professionals we worked with recommended her not be returned to her parents. I am a psychology student, and with the struggles finding therapists who worked with attachment/trauma children who took her medicaid, I focused my

schooling on it so I could help her as well as my family with healing. I took a break from college towards the end and with only 6 credits left, I need to get back in and focus on trying to make a difference again. It destroyed me, and changed my family forever.

My name is [REDACTED], and am bringing my story to you as many others are in hope that the State of Idaho will truly understand and embrace the vital need not only to encourage change regarding the Family Reunification process within the Department of Health and Welfare but ensure it is implemented.

There is so much I want to say but due to the amount of time will keep this as brief as possible. Please feel free to contact me if you find yourself with questions. I know I would have questions had I not lived it.

Though, I am happy in my adult life I still have many bitter feelings and struggle with trust issues both which stem from the deceit and excuses endured as child by our guardian, CPS and various others within the medical and legal system. The bitterness only grew after obtaining several court documents, evaluations and letters written by various people within the legal system. They only opened up new questions such as who was my guardian and why did she have so much pull within each agency we sought help from. Why it wasn't considered a conflict of interest that her attorney was our pediatrician's brothers.

Early childhood age two to seven

After becoming a single parent of two preschoolers our father decided he wanted a fresh start. Once he secured a new job and made arrangements for our care, we moved far away to begin our new life. While our new living situation was out of the norm by societies standards, we were happy, healthy and a well-adjusted children. Due to our father's work schedule of rotating shifts, he made arrangements for us to stay with a family during the week and with him on the weekends. This arrangement worked well for almost five years and would have continued had our father not passed away.

Scenario I

This is when the lying and deceit began, along with countless incidents of physical, verbal and emotional abuse. The following three scenarios can be found in the documentation mentioned above.

My sister and I were made wards of the state within ten days after the our father's death with temporary custody was granted to the family we were currently living with. Four days later the state permitted a relative a two week visitation in Boise under the pretense we would be returned after attending our father's funeral. The day before we were to return to the other family the relative filed for a change of venue to Ada county and filed for custody. The other family filed an opposition to change the venue to Ada county.

According to a letter written by Health and Welfare's, Director of Legal and Special Services, dated FORTY days after the death of our father, they determined that this relative was a proper and suitable person for custody and NO FURTHER SUPERVISION would be required from the department after ONE home visit.

It is plainly obvious this was well planned out ahead of time by both CPS and our relative. As a bedroom had already been fully furnished, from top to bottom which also included a brand new wardrobe prior to arriving for what was supposed to be only be a two-week visit.

Scenario II

I ran away and called my probation officer an hour or so later after locating a safe place to call from. She lead me to believe she was going to place me in detention but instead she scheduled a court hearing where the judge ordered me to return to the home. I resisted and tried to run but ended up being escorted to the car by an officer. Once in the car I locked the doors, but was defeated yet again. The officer showed my guardian's husband how to hold my hand and wrist to keep me from resisting while he drove back to the house. Then after placing me in my room he made his own son stand guard over me while he left the room. He returned with some rope and tied me to my bed. I

repeatedly asked his son to let me go even though I knew he wouldn't. When he finished they closed the door and proceeded to secure it from the outside. I was left like that until he passed out later that night.

Not sure if his son enjoyed watching this or if he himself was scared of what his dad would do if he didn't do as he was told. I still struggle to this day with not knowing the answer as he like the kids who lived there does not like to relive the past. Looking back, I believe he was living his own nightmare and feared what may happen if he stood up for us and more importantly for himself.

To make this clear, I didn't run away for fun but to save myself from a weekend that I knew was going to get ugly. It had already been a bad week at the house. They made plans to go to the cabin for the weekend which meant the ride home on HWY 21 would be a literal nightmare because he would be drunk. It was bad enough when he drove drunk but even worse when his wife drove. If she didn't go as fast as he wanted or pass each car, he would reach over from the passenger side and fight her for control of the steering wheel and stomp on gas pedal.

I preferred being in detention, I felt safe there even though I didn't care for my probation officer because she too chose to ignore my pleas for help. I returned there several times each time hoping CPS would reopen our case and permanently remove us. It did finally happen but not for another year or two and it certainly wasn't in our best interest how it turned out.

Scenario III

After a few years trying to get help through the juvenile court system my sister reached out to the family who cared for us before our dad passed away. They drove the five hundred miles to pick her up and again filed for custody of both of us.

During the custody hearing is when we found out we had been lied to about so many things, like why the scheduled visitation stopped. Our guardian finally confirmed several of our allegations, such as; monitoring of all phone calls, intercepting mail, she slept in our bedroom with us, boarding bedroom windows closed. She also confirm that there was verbal and physical abuse including the incident where I was tied to a bed. She testified that, "her husband after drinking, would become upset and as a result the she would leave with the kids and spend the night in a motel, but then stated the excuse, "She did not see anything wrong with this as her husband worked hard and should be entitled to unwind."

She also testified that, "if we chose not to remain with her she would attempt to put us in foster care, stipulating as long as it was within the jurisdiction of Ada county. Just like a broken record she already knew she was going to get her way for the most part. Which explains why her and her attorney didn't any bother to present any evidence at all that other family was unfit to care for us.

At the end of the day, the judge still granted in favor of our guardian. When we continued to stand up for ourselves by refusing to live with her, CPS re-opened our case handed down worst punishment of all, they separated us by placing us in different foster financial control homes while allowing her to maintain our trust funds and SSI benefits. In reality meant she not only did she maintain complete insight to our daily lives but was able to maintain a fair amount of control and continue with the verbal and emotional abuse. She even told one of my foster parents they needed to keep tabs on me because who ever murdered our dad was looking to do the same to my sister and I. My father wasn't murdered he was in a work related accident along with several others. In one of the documents she stated that she was constantly receiving calls from someone who claiming they were going to kidnap and hurt us kids.

Since we had a trust fund we did not receive benefits from the state like most foster kids, we had to contact her for any financial needs; lunch money, clothes, school activities, etc. When I asked why a financial advisory couldn't over see our trust, I was simply told that it was just told that it our case was unique and it was out of their hands to multiple things I wouldn't understand.

Impact of being Silenced

My sister and I only had each other to lean on since our father died when we were seven and nine. We needed each other, there was a family that wanted both of us, but due to nothing more than spite we were separated which took two spots in the foster care program that could have been used for two other children in need.

Reviewing these documents has helped me understand my feelings of helplessness were and still are justified. I have always felt CPS labeled us "Damaged Goods" to used to be lab rats to gain statistics for a long term research projects. How long can they survive before they mentally break, commits suicide, become a criminal or an addict.

Closure

There were four kids raised in this house whom were seriously affected in different ways which followed them each into adulthood.

One has resided in a nursing home for the past ten years due to permanent brain damage from alcohol. He was diagnosis at age six with ulcers and in his thirties had to have part of his stomach removed.

One continues to remain silent and not confront issues. I do not feel comfortable making a statement on his behalf. I can only speculate his feelings and his journey.

One was involved in a tragic domestic violence situation and is currently in prison. Had they been able to trust the system and came forward when the incident happened they would not be there as it was self-defense. I strongly believe had they been treated differently as child they would not have wound up becoming the sixth spouse of someone who was referred to by many as the town bully and a spousal abuser.

Which leaves me, the youngest. By age fourteen due to all the stress I was also diagnosed with ulcers. I was bounced between at least fifteen homes and ten school transfers within four years. With each move I had to learn to re-adjust not only to a new family but house rules, schedules, meals, sleeping arrangements, religious beliefs, school, and was always on edge wondering when the next placement would take place. Instead of being taught trust, I was taught fear. Not only from my guardians, but CPS and other agencies within the judicial system. Right or wrong I believe CPS labeled me at age seven, "Damaged Goods" there for deemed unworthy of either a loving home or justice and the other agencies willing followed their lead.

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Tuesday, March 01, 2016

SUBJECT	DESCRIPTION	PRESENTER
H 521	Alcoholic beverages , minor / medical emergency	Nate Fisher, U of I
RS24623	Minor's Claim	Michael Henderson, ISC

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills
Vice Chairman Dayley
Rep Luker
Rep McMillan
Rep Perry
Rep Sims

Rep Malek
Rep Trujillo
Rep McDonald
Rep Cheatham
Rep Kerby
Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, March 01, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: Michael Henderson, ISC; Holly Koole Rebholtz, IPAA; Seth Guyer, ASUI; Emily Larsen, ASBSU.

Chairman Wills called the meeting to order at 1:33 PM.

H 521: **Nate Fisher**, Student Body Association, University of Idaho, presented **H 521**. This bill provides limited immunity from minor in possession and minor in consumption convictions when there is a need for emergency medical attention. This bill does not provide immunity for any other concurrent crime at the scene. This bill does not condone underage drinking but it does aid in situations that can be a reality for individuals under the age of 21. After passage of this legislation in other states, calls to EMS increased by 51% for alcohol related emergencies.

In response to a question from the committee, **Mr. Fisher** explained in the typical scenario where someone has called law enforcement and medical personnel, the party is over and everyone clears out. It is unlikely students would stay in the area and attempt to gain immunity from charges. Determining who has immunity may be up to law enforcement.

Seth Guyer, University of Idaho student, testified **in support of H 521**. He testified about his experience when a friend was in need of emergency medical assistance after drinking too much. Mr. Guyer chose to stay on the scene and called an ambulance. The ambulance, firefighters, and police arrived on scene. He chose to stay on the scene and cooperate with questions, he was later charged with a Minor in Consumption. He went through the process of attending classes and counseling and was able to have the charge expunged from his record. When he sought to join the military he was not able to do so and missed out on a job opportunity he was very excited about because of the counseling requirement for expungement. This bill would assist future students and increase the safety of students who need emergency medical assistance.

Emily Larsen, Student Representative, Associated Students of Boise State University, testified **in support of H 521**. This bill is about the health and welfare of young people in this situation. It is imperative friends make the call for emergency medical assistance. Over 200 comments and 1,100 signatures have been collected from individuals who support the legislation. The University Student Associations will inform students of this change in the law and encourage them to make the call.

In response to questions from a committee, **Ms. Larsen** explained 65% of underage students have tried alcohol at least once. Alcohol is prevalent at parties and often students are encouraged to sleep it off, but many need medical assistance and are not aware of it. Students are provided training to recognize the signs of alcohol poisoning, which is the most common medical emergency in these circumstances.

Rep. Troy testified in support of **H 521**. This bill seeks to remove the number one barrier, which is a young person's fear of getting themselves, or a friend, in trouble. Encouraging minors to call for help and stay on the scene will increase the safety of the kids.

MOTION: **Rep. Wintrow** made a motion to send **H 521** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Mr. Fisher** explained information about immunity will be incorporated into orientation for students at the universities and will be paired with a strong message about drinking responsibly. Similar legislation was passed in California and in the year immediately following, the amount of binge drinking decreased by 2%. Research has proven passing this legislation does not result in a increase in drinking.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Troy** will sponsor the bill on the floor.

RS 24263: **Michael Henderson**, Idaho Supreme Court, presented **RS 24263**. This legislation was originally heard as **H 430** and **H 502** and contains improvements on the previous legislation due to changes needed. Concerns were raised about filing fees for petitions to seek a compromise of a claim. This piece of legislation includes a provision stating there will be no filing fee charged when a claim is filed. The legislation also clarifies if the claim is less than \$10,000 the Court could approve the claim based off the information in the report, rather than going through a hearing process. The legislation outlines what must be included in the report in order for the courts to approve without a hearing.

MOTION: **Rep. Gannon** made a motion to introduce **RS 24623** and recommend it be sent directly to the Second Reading Calendar.

In response to a question from the committee, **Mr. Henderson** explained if the child has a guardian or a conservator it is because there is an existing problem with the home and the parents, thus parents are not listed first in the order of priority. Parents may already file the claim according to the existing statute, this bill seeks to clarify what the process should be in a circumstance where the child is with a guardian or conservator.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Kerby** requested to be recorded as voting **NAY. Rep. Luker** will sponsor the legislation on the floor.

MOTION: **Rep. Wintrow** made a motion to approve the minutes from the February 23, 2016, meeting. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:27 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 P.M.
Room EW42
Thursday, March 03, 2016

SUBJECT	DESCRIPTION	PRESENTER
S 1235	Juvenile corrections, hearings, applics	Sharon Harrigfeld, Director, DOJC
	DOJC Update	Sharon Harrigfeld, Director, DOJC
H 555	Sexual exploitation of a child	Rep. Chaney
	SOMB Update	Jon Burnham, SOMB Chair

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, March 03, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Sims, Gannon, Malek

GUESTS: Holly Koole Rebholtz, IPAA; Kassandra Slaven, Ada County Prosecutors Office; John Dinger, IPAA; Alan Malone, Ada County Public Defender; John Burnham, SOMB; Sharon Harrigfeld, IDJC; Marc Crecelins, IDJC; Karin Magnelli, SOMB.

Chairman Wills called the meeting to order at 1:30 PM.

S 1235: **Sharon Harrigfeld**, Director, Idaho Department of Juvenile Corrections (IDJC) presented **S 1235**. This bill clarifies the process for granting informal adjustments to juveniles. The statute requires the admission by the juvenile and the granting of the informal adjustment had to occur at the admission or denial hearing. In addition to not being common practice in most juvenile courts, it is impractical for the decision for the juvenile to admit the allegations in the petition, as well as the judge to grant an informal adjustment at the initial stage of the proceedings. The amendment to the statute would allow the admission, as well as the granting of the informal adjustment, to occur at any stage of the proceeding, which is keeping with common practice. Additional changes are proposed effecting the final outcome of the informal adjustment, specifically if the court is shown the terms and conditions of the informal adjustment have been met, there is no longer a need to continue the informal adjustment, and it is compatible with public interest, than the court shall dismiss the case. This was discretionary and the amendment clarifies that if the court, in their discretion, is satisfied that the conditions to dismiss have been met, than the case is required to be dismissed. It doesn't remove the court's discretion, but places the discretion in determining whether the conditions have been met rather than whether or not the case is to be dismissed. The amendment also relieves juveniles of the duty to file an application for dismissal with the court. This is keeping with the common practice in many courts and alleviates the cost and time associated with making application to the court, both for the juvenile and their representing counsel as well as the court.

MOTION: **Rep. Trujillo** made a motion to send **S 1235** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** will sponsor the bill on the floor.

Sharon Harrigfeld presented a Idaho Department of Juvenile Corrections update. IDJC is developing productive citizens in partnership with the community through juvenile crime prevention programs, education, rehabilitation and reintegration. IDJC's strategic plan goals are to ensure juvenile accountability through effective use of evidence-based practices, to ensure community protection through skills improvement of juveniles returning to the community and to strengthen and support all resources within IDJC. Family engagement is a very important component in adolescent success and IDJC is working to better engage families throughout the continuum of care. The recidivism rate in the last fiscal year was 23%. Focusing on the protective factors like family support, school success and stable environments increases the likelihood of the juvenile's success. Positive outcomes include 795 credits earned in the first 6 months of this school year, 47% of eligible juveniles receiving a High School Diploma or a GED, 83% increase in reading scores, 90% increase in math scores and 82,291 hours of community service completed. A multi system integration team comprised of the Department of Health and Welfare, the Courts and the Criminal Justice Commission is working to identify dual involved youth (commonly known as "cross over youth") who were in the child protection system or the mental health system and have now entered the juvenile justice system. The purpose is to determine what steps can be taken earlier to prevent the youth from moving further into the system.

In response to questions from the committee, **Ms. Harrigfeld** explained therapeutic communities in IDJC are different than adult therapeutic communities in the Department of Corrections. There has not been a difference in the mixture of crimes against persons and property but the cases IDJC is encountering are becoming much more complex.

H 555:

Rep. Chaney presented **H 555**. This bill addresses a practice known as sex-ting which is a self created obscene images distributed by electronic means. An estimated 50% of juveniles are expected to be engaged in such activities. High school students in Idaho are as likely to be sex-ting as they are to graduate and go on to college. There is a difference between youthful indiscretion and evil intent and by making this change in code, it will distinguish between the two. Making this change removes the possibility the minor could be required to register as a sex offender and removes it from a section which is specifically exempt from being eligible for expunction. Specifically this bill reduces it to a misdemeanor for the minor creating and sending the image if the image is only sent to one other minor. Charges are also reduced to a misdemeanor for the minor in possession of a self created image sent to them by the minor who created it. If the image is self taken and mass distributed, the first offense is a misdemeanor and each subsequent distribution is a felony. This does not increase the penalty because these charges are already a felony. Leaving the law unchanged may prevent minors from coming forward and asking for help with their indiscretion, because it is a felony.

In response to a question from the committee, **Rep. Chaney**, explained the use of "willful" is intended to protect those who received an unsolicited text or e-mail. Willful possession must be determined by the finder of fact.

MOTION:

Rep. Kerby made a motion to send **H 555** to the floor with a **DO PASS** recommendation.

Holly Koole Rebholtz, IPAA, stated their **support** of **H 555**.

John Dinger, IPAA, testified in **support** of **H 555**. This bill protects children and makes an important update to the statute.

In response to questions from the committee, **Mr. Dinger** explained a simple point a to point b distribution is often handled by involving the parents. If distribution is beyond a single intended minor, the minor who sent the image is taken through a diversion case, which includes removal of their phone and sexual boundaries counseling. If the original conduct is very severe, or if the conduct continues after a diversion case, the minor is referred to the juvenile division. Juvenile prosecutors typically will not charge the minor under 18-1507 and will instead charge them with dissemination of harmful material to a minor. Occasionally, cases are charged under 18-1507 because of concern for the juvenile. This bill is a good bill to assist with cases charged under 18-1507. It is unlikely there will be an increase of charges after the implementation of this bill. The types of cases which have been charged under dissemination of harmful material to a minor, may begin to be charged under 18-1507a with the passage of this bill. This bill is likely to assist with bullying surrounding sex-ting as the minor is likely to be more comfortable coming forward.

Alan Malone, Ada County Public Defender, testified in support of **H 555**. There are times when a child is prosecuted with the only remaining prosecutable crime, which in many cases results in a felony charge. This felony charge subjects them to registration and is not able to be expunged.

In response to a question from the committee, **Mr. Malone**, explained the interpretation of a first offense and second offense, could be one "sext" followed by another and another. It would provide more clarity if it stated a second offense would follow the first adjudicated offense.

Rep. Chaney, the only scenario in which this escalates to a felony status is a second offense of mass distribution. The first offense misdemeanor is an exception to the mass distribution rule. The targeted behavior of the bill is misdemeanor status.

VOTE ON MOTION:

Motion carried by voice vote. Rep. Chaney will sponsor the bill on the floor.

Jon Burnham, Chair, Sexual Offender Management Board, presented an update from the Sexual Offender Management Board (SOMB). The Sexual Offender Management Board appreciates the new polygraph member position approved last session and the voice this member brings to the table. The board is currently in the process of reviewing the standards previously developed for certification of post-conviction sex offender polygraph examiners and is utilizing the board member's expertise. The set of standards for providers of services to adult sex offenders developed in 2014 has been modified to apply to psychosexual evaluators and treatment providers for juveniles who have been adjudicated for sexual offenses. Certification of juvenile providers began last year. An ongoing charge of the board is development of risk-based, tiered sex offender registration systems for adults and juveniles. In 2015, the SOMB presented **S 1095** to implement a five-tiered adult registration system. Although the bill did not proceed through both houses, the board is working to modify the proposed system to identify initially only the high risk or more serious offenders for enhanced registration requirements from the rest of the registered sex offender population. Once the process has been implemented the board will take a period of time to gather data and address identified issues before reintroducing the measure. The goal is to introduce the identified system to the 2018 legislature with implementation set for 2019. The direction for a tiered juvenile registration system has changed from a system largely driven by the courts to a system driven by the Sex Offender Management Board. A proposal is being reworked to involve 3 registration tiers which would limit public access to the registration information of only the highest risk or more serious juvenile offenders who have been adjudicated for sexual offenses. The board is working to develop a set of continuing education workshops for community providers across the state due to specialized training being difficult and costly to obtain. A review

is being conducted of the previously established quality assurance procedures for feasibility. The polygraph member is developing quality assurance procedures to correspond with the post-conviction sex offender polygraph examiner standards.

In response to a question from the committee, **Mr. Burnham** explained in regard to the tiered juvenile sex offender registration, when the juvenile is released at age 21 the juvenile will be automatically off of the registry. Juveniles may be moved among the tiers and after review they may be moved to a lower tier. The use of polygraph is voluntary unless court ordered because it is a good tool for treatment. At this time there are no specialty courts for sex offenders and the idea of sex offender speciality court are not promoted or suggest on a national level.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:41 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #1
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 PM or Upon Adjournment
Room EW42
Monday, March 07, 2016

SUBJECT	DESCRIPTION	PRESENTER
S 1277	Sex crimes, battery/rape, notice	Sara Thomas, SAPD
RS24662	Sex crimes, rape	Sara Thomas, SAPD
	ICJC Update	Sara Thomas, ICJC

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, March 07, 2016
TIME: 1:30 PM or Upon Adjournment
PLACE: Room EW42
MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek (Chadderdon), Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow
ABSENT/EXCUSED: None
GUESTS: None.

Vice Chairman Dayley called the meeting to order at 3:01 PM.

S 1277: **Sara Thomas**, SAPD, presented **S 1277**. This bill is a product of the Idaho Criminal Justice Commission's review of Idaho's sexual crimes statutes. This review revealed a shortcoming in Idaho's statute which requires some form of resistance from the victim of a rape. Idaho is one of only a handful of States which has not updated its statute.

Paul Panther, Chief, Criminal Law Division, Attorney General's Office, testified in support of **S 1277**. He chaired the subcommittee which proposed these changes. Despite 33 other states removing resistance from their statutes, the Idaho Supreme Court is bound by the language in Idaho's Statute. This legislation seeks to amend the current statute to provide that a victim of rape need not offer resistance where the victim has a well-founded belief that resistance would be futile or that resistance would result in the use of force or violence. Idaho has a female rape and male rape statute which have some differences, this bill would adopt gender neutral language, specify both men and women can commit the act of rape and repeals the male rape statute. The rape of spouse statute has been updated to say no spouse can be convicted of raping their spouse unless the situation meets specific circumstances.

In response to a question from the committee, **Mr. Panther** explained the State would bear the burden of proving the victim had an objectively reasonable belief of harm. There are two provisions dealing with resistance, and evidence of rape is evidence of resistance. A portion of the bill does address a situation when the victim is not able to resist with the burden to prove this resting on the State. A situation where the victim is unable to resist due to consuming alcohol or drugs are also addressed. All circumstances would be taken into consideration, not just a single circumstance like a difference in stature.

Vice Chairman Dayley turned the gavel over to **Chairman Wills**.

Sara Thomas, stated questions have been raised about the sexual battery section, specifically the requirement to have an individual register as a sex offender, for what may be considered a minor offense, if it happened a third time. Concerns were also raised due to the way the sexual battery of an adult statute is written, even a forcible sexual battery could be considered a misdemeanor. Due to the questions and concerns raised, it has been requested **S 1277** be held in committee, for the purpose of bringing new legislation.

MOTION: **Rep. Trujillo** made a motion to **HOLD S 1277** in committee. **Motion carried by voice vote.**

RS 24662: **Sara Thomas**, Chair, Criminal Justice Commission, presented **RS 24662**. This legislation is the same as **S 1277**, with the exception of the sexual battery portion being removed.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 24662** and recommend it be sent directly to the Second Reading Calendar.

SUBSTITUTE MOTION: **Rep. Nate** made a substitute motion to introduce **RS 24662**. Roll call vote was requested. **Motion carried by a vote of 9 AYE, 7 NAY, 1 EXCUSED. Voting in favor of the motion: Reps. Luker, McMillan, Sims, Malek, McDonald, Cheatham, Kerby, Nate, and Scott. Voting in opposition to the motion: Reps. Dayley, Trujillo, Gannon, McCrostie, Nye, Wintrow, and Chairman Wills. Rep. Perry was excused.**

Sara Thomas, presented a Idaho Criminal Justice Commission (ICJC) update. The goal is to reduce victimization and recidivism in the State of Idaho. The first objective is to establish evidence-based and best practices relating to accountability, prevention, education and recidivism reduction. The second objective is to strengthen the knowledge base in Idaho by enhancing data collection abilities and sharing capabilities. The Commission continues to address data sharing opportunities and data sharing projects. The Commission has agreed to supervise a group with a special emphasis project grant from the Bureau of Justice Statistics. In the past year, this group has focused on a data sharing project between the Idaho Department of Juvenile Corrections and the Idaho Web Infrastructure for Treatment Services (WITS). Because of this project clinicians are able to use the WITS program to determine if a child, referred to them by the courts for treatment or evaluation, has been in the Department of Juvenile Corrections and what programs they have participated in. This project has greatly reduced the amount of wait time for the information to be gathered.

Another part of the ICJC strategic plan is to provide policy makers and criminal justice decision makers with accurate information. The goal is to advance the delivery of justice through effective interventions by proposing balanced solutions, which are cost effective and based on best practices. Additionally the strategic plan includes promoting efficiency and effectiveness of the criminal justice system by promoting well-informed policy decisions. Subcommittees have focused on pre-trial justice, standardized recidivism definition, mental health, research alliance, and criminal fees and fines.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:53 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 or Upon Adjournment
Room EW42
Wednesday, March 09, 2016

SUBJECT	DESCRIPTION	PRESENTER
S 1255	Attorney general / county elected officers	Michael Kane, ISA
S 1327	Vulnerable adults/definition revised	Michael Henderson, ISC
S 1352	Guardians of minors, terminat/resig	Michael Henderson, ISC
H 573	Parent/guardian delegation of power	Rep. Redman

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek(Chadderdon)	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, March 09, 2016

TIME: 1:30 or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek (Chadderdon), Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Luker, McDonald, Perry

GUESTS: Holly Koole Rebholtz, IPAA; Michael Henderson, Idaho Supreme Court; Mike Kane, ISA; Caitlin Rusche, IAC.

Chairman Wills called the meeting to order at 1:31 PM.

S 1255: **Sen. Rice** presented **S 1255**. The purpose of this legislation is to amend the law regarding the investigative power of the State Attorney General into elected county officials. The current law has proven problematic, because the current law only allows for partial prosecutorial power, which requires the investigation to be passed on to another official. The preliminary investigation must be sent back to the prosecutor but it cannot include any information due to conflict of interest, which requires it go to a conflict attorney who must go through the Attorney General's office. This takes a great deal of time. This legislation clarifies if it is clear the matter does not need further investigation, there will be no requirement to pursue it.

Michael Kane, ISA, presented **S 1255**. At this time, the Attorney General is required to investigate any accusation, no matter how de minimis or anonymous. The current law mandates the Attorney General involve himself in civil claims, however this is outside the normal function of a criminal law enforcement agency and the law does not provide a way for the Attorney General to proceed on behalf of one party or another in civil matters. The solution is to allow the Attorney General to have true prosecutorial discretion and power in criminal matters involving county elected officials. There is no fiscal impact because limiting the number of cases being pursued will not require additional people to be hired.

MOTION: **Rep. Trujillo** made a motion to send **S 1255** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

S 1327: **Michael Henderson**, ISC presented **S 1327**. This bill concerns a defect in the law pertaining to vulnerable adults. The statute defines "neglect" as a failure of a caretaker to provide certain basic needs "in such a manner as to jeopardize the life, health and safety of the vulnerable adult". The use of "and" means proving neglect requires the State to show the life of the vulnerable adult was jeopardized, in addition to his or her health or safety. This appears to make all neglect of a vulnerable adult a felony. It is believed the Legislature intended acts jeopardizing the health or safety of a vulnerable adult, but not necessarily his or her life, would be an offense punishable as a misdemeanor.

MOTION: **Rep. Kerby** made a motion to send **S 1327** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** will sponsor the bill on the floor.

- S 1352:** **Michael Henderson**, ISC, presented **S 1352**. This bill corrects an omission in the statute relating to guardianship. It amends Idaho Code to provide a person interested in the welfare of a ward, or a ward who is at least 14 years old, may petition the court for modification or termination of the guardianship on the grounds the modification or termination would be in the best interest of the ward. This would fill the gap in the Idaho Code and provide guidance to all persons concerned in a guardianship.
- MOTION:** **Rep. Trujillo** made a motion to send **S 1352** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Sims** will sponsor the bill on the floor.
- H 573:** **Rep. Redman** presented **H 573**. Current law allows temporary voluntary custody arrangements between families outside of the Idaho Child Protection Services foster care system. This legislation extends existing legislation to a year for temporary custody and longer for active-duty military. It adds new legislation to Idaho Code to specify non-profit organizations can be involved in helping facilitate these voluntary partnerships between families. It will provide a less restrictive option to support families in crisis before conditions rise to the level of CPS intervention. Often parents do not seek help out of fear their children will be taken into the foster care system. The average time children spend away from parents is 29 days and the parents maintain full custody of their children.
- MOTION:** **Rep. Dayley** made a motion to send **H 573** to the floor with a **DO PASS** recommendation.
- In response to a question from the committee, **Rep. Redman** explained there are 29 states which have enacted the legislation and 3 states have policy in place. It is important for Idaho to have a policy in place so the non-profit is recognized as having the authority to act in the capacity of reviewing host families for placements. The sole responsibility, including liability and exposure, of vetting a host family will rest on the non-profit. The State cannot be liable due to the passage of this bill.
- VOTE ON MOTION:** **Motion carried by voice vote.** **Reps. Nate, McCrostie, Gannon, and Wintrow** requested to be recorded as voting **NAY**. **Rep. Redman** will sponsor the bill on the floor.
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:44 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 or Upon Adjournment
Room EW42
Tuesday, March 15, 2016

SUBJECT	DESCRIPTION	PRESENTER
SCR 143	Joint rule 20, amended	Beck Roan
SCR 144	Joint rule 21, amended	Beck Roan
S 1351	Prisoners, community service	Sen. Lodge
HCR 52	Foster care system, study committee	Rep. Perry
S 1361	Public defense, funding admin	Sen. Lakey
H 580	Sex crimes, rape	Sara Thomas, SAPD

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek(Chadderdon)	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, March 15, 2016

TIME: 1:30 or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** None

GUESTS: Lisa Growette Bostaph, BSU; Laura King, BSU; Pam Panther, Attorney General; Jessica Lorello, Attorney General; Sara Thomas, ICJC; Joyce Broadsword, Department of Health and Welfare; Holly Koole Rebholtz, IPAA.

Chairman Wills called the meeting to order at 1:30 PM.

MOTION: **Rep. McMillan** made a motion to approve the minutes of the February 25, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. McMillan** made a motion to approve the minutes of the February 29, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. McMillan** made a motion to approve the minutes of the March 1, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. McMillan** made a motion to approve the minutes of the March 3, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. McMillan** made a motion to approve the minutes of the March 7, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. McMillan** made a motion to approve the minutes of the March 9, 2016 meeting. **Motion carried by voice vote.**

SCR 143: **Sen. Davis** introduced **Beck Roan** who will present **SCR 143**.

Mr. Roan presented **SCR 143**. This legislation amends Joint Rule 20 which pertains to constitutional amendments and when they must be introduced and transmitted. The rule currently requires a constitutional amendment to be transmitted by the 55th legislative day which frequently falls on a weekend. This is intended to change the transmittal deadline to the 57th day.

In response to questions from the committee, **Mr. Roan** explained even though the current language allows for the rule to be waived, the language has not been sufficient to alleviate the issue. The introduction deadline is the 36 legislative day and it does not fall on a weekend, thus it is not being adjusted by this legislation.

MOTION: **Rep. Kerby** made a motion to send **SCR 143** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moyle** will sponsor the legislation on the floor.

SCR 144: **Beck Roan** presented **SCR 144**. This legislation amends Joint Rule 21 which pertains to recordings of proceedings. Presently the recordings are kept for two years and then transferred to the archives. This legislation clarifies what legislative services is allowed to do with the recordings and allows them to keep the original and send a copy to the archives.

In response to a question from the committee, **Sen. Davis** explained the Idaho Legislature is already maintaining the recordings and so there is no fiscal impact. This legislation is intended to update the statute to conform with current practice.

MOTION: **Rep. Dayley** made a motion to send **SCR 144** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moyle** will sponsor the legislation on the floor.

S 1351: **Sen. Lodge** presented **S 1351**. This legislation adds community service projects to the list of opportunities for those confined in county jail. Presently, persons confined in county jail are able to take part in projects for the federal and state governments.

In response to a question from the committee, **Sen. Lodge** explained individuals from the county jail may be allowed to join a project hosted by a 501(c)3, a religious organization or other community sponsored projects. Approval of these projects would be conducted by the county coordinators who are already coordinating work and projects for inmates.

Chairman Wills invoked Rule 38 stating a possible conflict of interest but that he would be voting on the legislation.

MOTION: **Rep. McCrostie** made a motion to send **S 1351** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Cheatham** will sponsor the bill on the floor.

HCR 52: **Rep. Perry** presented **HCR 52**. This legislation authorizes the Legislative Council to appoint an interim committee to study issues related to the foster care system in Idaho. The committee will report its findings and make recommendations to the First Regular Session of the 64th Idaho Legislature.

In response to question from the committee, **Rep. Perry** explained members of the committee are appointed by the Joint Legislative Council.

MOTION: **Rep. Trujillo** made a motion to send **HCR 52** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Rep. Perry** explained there is a balance in party when the members are assigned.

VOTE ON MOTION: **Motion carried by voice vote.** **Rep. Perry** will sponsor the legislation on the floor.

S 1361: **Sen. Lakey** presented **S 1361**. This legislation clarifies which funds and how much of each fund the counties can use to cover the cost for indigent services. This pertains to the justice fund, the current expense fund or the indigent fund.

MOTION: **Rep. Luker** made a motion to send **S 1361** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the legislation on the floor.

H 580: **Sara Thomas**, Chair, ICJC presented **H 580**. This legislation provides equal protection to both men and women by making the rape statute gender neutral, rape of spouse has been update to exclude certain situations, and it revises the requirement for resistance in certain statutes. When victims resist, their chance of greater injury doubles.

MOTION: **Rep. McDonald** made a motion to send **H 580** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Ms. Thomas**, explained this legislation still requires the State to prove lack of consent beyond a reasonable doubt. This legislation removes resistance as the way the State must prove non-consent. The stature of the person would be only one of the factors considered in the totality of the circumstances.

Lisa Growette Bostaph, Professor, Department of Criminal Justice, BSU, testified **in support of H 580**. Fight or flight are mobilizing defenses. However, freezing is a immobilizing defense used when fight or flight are not perceived as a good option. Rape has been identified as a trauma that can result in fight, flight or freeze.

In response to a question from the committee, **Ms. Bostaph** explained all senses become hyper aware when a individual is in an immobilized defense.

In response to a question from the committee, **Ms. Bostaph** explained no other statute includes a requirement of the victim, and instead focuses on the actions of the offender.

**VOTE ON
MOTION:**

Motion carried by voice vote. Reps. Wintrow and Malek will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:37 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 PM or Upon Adjournment
Room EW42
Thursday, March 17, 2016

SUBJECT	DESCRIPTION	PRESENTER
SCR 150	Joint rule 18, amended, sop / fn	Sen. Davis
S 1362	Liens, renewed judgements, time	Sen. Davis
S 1373	Protections orders, harassment/stalk	Sen. Burgoyne
S 1302	Estates, family allowances	Robert Aldridge
S 1303aa	Estates, uniform fiduciary access	Robert Aldridge
S 1343	Parole, violation allegations	Sen. Anthon
S 1328aa	Child protect act/hearing requirement	Judge Barry Wood, ISC

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

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MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, March 17, 2016

TIME: 1:30 PM or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) McDonald, Nate

GUESTS: Maureen Wishkoski, Women's and Children's Alliance; Jennifer Landhuis, Idaho Coalition Against Sexual and Domestic Violence; Sherri Cameron, Boise Police Department; Senator Kelly Anthon; Bob Aldridge, TEPI; Judge Bryan Murray, Idaho Courts; Deena Layne, ISC; Jessica Lorello, Attorney General; Savahna Goodman, Self; Miren Unsworth, IDHW; Holly Koole Rebholtz, IPAA; Dan Dinger, IPAA; Representative Lance Clow.

Chairman Wills called the meeting to order at 2:22 PM.

SCR 150: **Sen. Davis** presented **SCR 150**. The purpose of this legislation is for the fiscal note to better reflect the true fiscal impact of the bill. A statement of purpose and a fiscal note are required to be attached to any introduced bill. Fiscal notes must contain the proponent's full fiscal year projected increase or decrease. The proponent bears the responsibility of providing accurate information. If it is determined there will be no fiscal impact, the fiscal note must contain a statement of the reason no fiscal impact is projected. All statements of purpose and fiscal notes must be reviewed by the committee for compliance before final action is taken. A member of the committee may challenge the sufficiency of a fiscal note prior to the committee's final action on the bill. Any member may debate the sufficiency of the statement of purpose or fiscal note when the bill is taken up for consideration on the floor. Any revisions of the statement of purpose or fiscal note are ministerial only. It must be clear the statement of purpose is not intended to reflect legislative intent and a notice will be placed on each statement of purpose and fiscal note

In response to a question from the committee, **Sen. Davis** explained revisions of the statement of purpose or the fiscal note may happen in a ministerial function, meaning without unanimous consent because doing so would imply the statement of purpose is more than a mere attachment.

In response to a question from the committee, **Sen. Davis** explained the legislature is the sole judge of legislative rules. The notice which will clarify the statement of purpose and the fiscal note are only a mere attachment and not an expression of legislative intent, will automatically be applied when the statement of purpose is generated in GEMS. This notice is intended to alert those reviewing the legislation that the statement of purpose and the fiscal note are not intended to reflect legislative intent.

MOTION: **Rep. Sims** made a motion to send **SCR 150** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moyle** will sponsor the bill on the floor.

S 1362: **Sen. Davis** presented **S 1362** to the committee.

- MOTION:** **Rep. Nye** made a motion to send **S 1362** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.
- S 1373:** **Sen. Burgoyne** presented **S 1373**. This legislation permits a victim of malicious harassment, stalking or telephone harassment, as defined in Idaho law, to file a civil petition in court seeking a protective order on behalf of themselves or their children. Presently, in order to qualify for a protective order, a specific relationship must exist between the victim and the perpetrator. Stalking does not qualify for a civil protective order. However, many times the required romantic or familial relationship do not exist between victim and perpetrator, and the victim is left without any recourse. A violation of the protection order is a misdemeanor. The cost of court filing fees and bonds are waived because Idaho receives between 9 million and 15 million federal dollars intended for victims of domestic violence. These funds hinge on court filings fees not being charged to those filing a civil protective order due to stalking.
- In response to a question from the committee, **Sen. Burgoyne** explained a petition for an ex parte order must meet the requirements in Idaho Code 18-7907, except this bill will also require the victim to show stalking or harassment has occurred in the last 90 days, irreparable injury into the future and a likelihood the stalking will continue. Stalkers do not limit themselves to one of the three statutes and telephone harassment has the potential to be just as serious as malicious harassment or stalking, thus it is included.
- Sherri Cameron**, Boise Police Department, testified **in support** of **S 1373**. Stalking is one of the most difficult cases to prove and build. This is due to the language in the statute requiring a pattern of behavior. When a victim is not able to receive a protection order, it is very difficult to protect the victim and it is impossible for the police department to take action. Often when a stalker is no longer able to reach the victim by the phone their behavior will escalate. If the civil order is not treated as a criminal offense it is not enforceable. In a majority of cases, protection orders do stop the behavior.
- In response to a question from the committee, **Ms. Cameron** explained what irreparable injury may look like in a victim's life. These cases have a traumatic impact on a victim's life, including making changes to where they eat, shop, and work out. Planning their lives around where they may come into contact with the perpetrator. This behavior often prevents the victim from going to work which sometimes results in loss of a job, or taking their children to school. Sometimes the victim will move, change their vehicle, change their phone number and change their children's school.
- Maureen Wishkoski**, Women's and Children's Alliance, testified **in support** of **S 1373**. Although some will say a protective order is just a piece of paper, the protective order does work and often successfully stops the behavior. There were more than 700 protective orders in Ada County in 2015.
- Jennifer Landhuis**, Idaho Coalition Against Sexual and Domestic Violence, Stalking Resource Center, testified **in support** of **S 1373**. Nationally, 7.5 million people are stalked in a single year. In 50 percent of the cases the relationship required under Idaho law to file for a civil order of protection, does not exist. Only 40 percent of stalking victims contact law enforcement. A protective order is a tool for law enforcement but it is only effective if it available.

Savahna Goodman, testified in support of **S 1373**. She provided information about her personal experience with a stalker. She received texts at all hours of the day and for hours at a time. The texts would come in groups of 100-200 texts at a time. She did not meet the qualifications for a protective order because she did not have a romantic or familial relationship with the stalker. Over time the behavior escalated and she chose to make significant changes in her life, including quitting her job. At this time, the stalking has ceased, but she has concern for others in this situation who are unable to receive a protective order, and who may not have the freedom she had to make such significant changes in their lives to avoid their stalker.

Daniel Dinger, IPAA, testified in support of **S 1373**. He serves as the supervisor of the IPAA's domestic violence unit. This unit handles domestic violence and other types of cases, including stalking. There are gaps in the law, including situations where the necessary relationship qualifications are not met, or where the necessary relationship does exist but no specific threat of violence has been made. A specific threat of violence is a necessary qualification for a protective order. This legislation would provide the change necessary to provide protection and relief for vulnerable individuals in the community.

Rep. Clow testified in support of **S 1373**. He was made aware of Savahna's situation and he found it very surprising she did not qualify for a protective order. He was happy to cosponsor this legislation in order to provide a judge with the opportunity to make a reasonable determination about granting a protective order in this type of situation.

MOTION: **Rep. Gannon** made a motion to send **S 1373** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Clow** will sponsor the bill on the floor.

S 1302: **Bob Aldridge**, TEPI presented **S 1302**. A number of years ago, the "family allowance" was removed from the Probate Code. However, it has been found that not all cross-references to the family allowance in the Probate Code were removed at that time. This bill simply removes the remaining cross references to the non-existent family allowance.

MOTION: **Rep. McCrostie** made a motion to send **S 1302** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

S 1303aa: **Bob Aldridge**, TEPI presented **S 1303aa**. This bill is referred to as the Revised Uniform Fiduciary Access to Digital Assets Act. This bill deals only with digital assets such as e-mail, social media, online accounts for banking and investing, online storage of music, photographs and documents, ancestry accounts, and many other digital accounts and property. The bill modernizes the law and updates the rules regarding access to such digital assets by fiduciaries. This bill addresses four common types of fiduciaries including: personal representatives for a deceased person's estate, court-appointed guardians or conservators for a living protected person's estate, agents appointed under powers of attorney, or trustees. Specifically, this bill gives the holder of the account control. The holder is allowed to specify whether their digital assets should be preserved, distributed to heirs, or destroyed. It provides uniformity, respects privacy interests, recognizes the different types of fiduciaries who may need access, requires clear proof of authority, recognizes limits from federal law, and protects custodians of digital assets who comply with a fiduciary's apparently authorized request for access, by giving them immunity so long as they act reasonably and in good faith.

In response to a question from the committee, **Mr. Aldridge** explained this legislation came from the Uniform Laws Commission. Two changes have been made to the original legislation from the Uniform Laws Commission. One was per the request of the Motion Picture Association to include "and designated recipient." The second change was per the request of the Idaho Trial Lawyers to include "reasonably". This legislation has been introduced across many states, and is likely to be adopted across the nation.

MOTION: **Rep. Kerby** made a motion to send **S 1303aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

S 1343: **Sen. Anthon** presented **S 1343**. This bill is about public safety and addresses concerns from law enforcement, the courts, and the Commission of Pardons and Parole. These concerns pertain to how the Board of Pardons and Parole can effectively handle the most dangerous parolee's and their violations. A hearing officer may choose, based on the nature of the violation, whether to impose 90/180 day sanctions. If the violation is of a sexual or violent nature, or if a violator has been formally charged with a new felony or violent misdemeanor, the hearing officer may decide the violator should remain in custody while the charge is being adjudicated.

In response to a question from the committee, **Sen. Anthon** explained there is nothing preventing the new formal charge or a conviction to be the trigger for the hearing.

MOTION: **Rep. Gannon** made a motion to send **S 1343** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

S 1328aa: **Judge Bryan Murray**, Chair, Idaho Supreme Court Child Protection Committee, presented **S 1328aa**. This legislation was prepared by the Idaho Supreme Court Child Protection Committee. The purpose of the proposed changes is to implement best practices identified and/or developed by the committee. This includes practices required by recent federal legislation. According to 2014 data from the Idaho Medicaid program, 46% of foster kids in Idaho are prescribed psychotropic medications. This legislation requires the Idaho Department of Health and Welfare (IDHW) to report if a child is being prescribed psychotropic medications and if so, how much, at every review and permanency hearing. The courts may then inquire about the circumstances.

In 2014, the Preventing Sex Trafficking and Strengthening Families Act, and the Fostering Connections Act were implemented. Both laws are directed at state agencies and compliance with both is necessary to maintain federal funding. Only the changes to the Idaho statute necessary to maintain federal funding and which are believed to improve outcomes for Idaho foster children have been identified. Implementing the proposed changes will not have a direct impact on the General Fund but failure to do so, will result in the loss of desperately needed federal funding. Transitional planning must start at age 14 rather than 16 and must be included in case plans. The Idaho Supreme Court Child Protection Committee recommends a review and/or permanency hearing 90 days prior to a youth aging out for the purpose of addressing the transition plan.

For youth 14 years old and older, the case plan must document the youth was provided with information about their rights including: education, health, visitation, court participation and a receipt of their annual credit report. IDHW must sign an acknowledgment that the youth was provided the information and it was explained in an age or developmentally appropriate way. For youth 12 years old and older, the court will inquire at review and permanency hearings what the youth desires for permanency placement. In this case, if the youth is 16 years old and older, a list of permissibly permanency goals is provided. If the permanency goal is APPLA the permanency plan must document the steps IDHW is taking to ensure the foster parents or child care institution are following the reasonable and prudent parent standard when determining whether to allow the youth to participate in extracurricular, enrichment, and social activities and the opportunities provided to the youth to engage in age or developmentally appropriate enrichment activities. The impetus for this is the youth often are housed but not allowed opportunities to engage in the typical activities youth are interested in. The 2014 Preventing Sex Trafficking and Strengthening Families Act has added specific requirements to the current requirement that the court make a written, case-specific findings as to why a more permanent goal is not in the best interest of the child. The new requirements includes why APPLA is the best permanency goal for the youth and the compelling reasons why it is not in their best interest to be placed permanently with a parent, in an adoptive placement, in a guardianship, or in the custody of the Department in a relative placement. It is important to note Federal law makes long-term foster care with a relative acceptable for the purposes of Title IV-E funding. This is the reason relative placement is listed, even though it is not listed as a permanency goal in Idaho statute.

IDHW must make reasonable efforts to place siblings together, and if siblings cannot be placed together, IDHW must provide a plan for frequent visitation or ongoing interaction between the siblings, unless it is contrary to the welfare of one or more of the siblings. IDHW must develop a plan to ensure the educational stability for the child, including assurances the child's placement takes into account the appropriateness of the current educational setting and the proximity of the school the child is enrolled in at the time of the placement. As well as assurances IDHW will make reasonable efforts to ensure the child remains in the school the child is enrolled in at the time of the placement.

The Bureau of Indian Affairs has adopted new guidelines for implementing the Indian Child Welfare Act. The only change the committee is proposing to the Idaho statute is to require the court, at every hearing, to inquire about the child's possible Indian status. Early identification of the child's status ensures compliance with ICWA and avoids potential disruption to the child's life and to judicial proceedings due to failure to comply with ICWA. Continual inquiry is necessary because new information about the child's status may arise at any time. If there is reason to believe the child is an Indian child but no final determination has been made about the child's status, IDHW will document its efforts to determine the child's status and the court will determine whether IDHW is making active efforts to work with all tribes of which the child may be a member to determine if the child is, or may be eligible for membership.

By amending the language pertaining to shelter care hearings, it will reduce confusion about the correct outcome when the court doesn't place the child in shelter care. Amendments to the language pertaining to review and status hearings, seeks to clarify the purpose of a review hearing and create an opportunity for the court to review discrete issues without requiring a report from IDHW and the guardian ad litem. Current statute is not clear on what kind of hearing is required when a child is removed from a home pursuant to 16-1623. Changes have been made to clarify this is a redispotion hearing and not a shelter care hearing. It is also clarified this section applies only when a child is removed without a prior hearing. Permanency hearings will be required annually, in addition to the 30 day permanency hearing. Reports at review hearings must be filed at least 5 days prior to the hearing.

It is imperative youth are involved in court and in the plans being made for their future. At age 8 a child has the right to notice and come to court. At age 12 the child may begin participating, answering questions and may be assigned a lawyer, even if they have a guardian ad litem. At age 14 they may begin participating in the preparation of their case plans. At age 16 they will help create the transition plan to move them into adulthood which will be reviewed with a judge 90 days before they turn 18.

In response to a question from the committee, **Judge Murray** explained the use of "to plan" rather than "shall plan" was specifically requested by the children who do not wish to be forced into the plan.

In response to a question from the committee, **Judge Murray** explained there are national standards and rights for foster care children, and the agency has worked on standards and rights for Idaho foster care children. This shift is due to the historical focus on the rights of the parents, rather than the rights of the children.

In response to a question from the committee, **Judge Murray** explained an inquiry from the courts motivates and moves people into action. However, the right to inquire does not give the judge the authority to make changes.

In response to a question from the committee, **Judge Murray** explained in regard to protective orders, law enforcement will make the initial decision about whether to remove the adult or the child. Law enforcement is often reluctant to remove the home owner and it is often unclear who the offender is.

In response to a question from the committee, **Judge Murray** explained adoption subsidies are one category. The State receives incentive monies by not leaving kids in foster care for long periods of time or by moving children into adoption. Adoption subsidies go to a specific child based on their history in the system and their qualifications. The adoption subsidy can be lost if proper procedure, detailed in IV-E funding, is not followed. The subsidies and the incentive monies are paid out from different funds.

MOTION: **Rep. Nye** made a motion to send **S 1328aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nye** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:39 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AGENDA
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 PM or Upon Adjournment
Room EW42
Monday, March 21, 2016

SUBJECT	DESCRIPTION	PRESENTER
S 1300aa	Estates, divorce, probate transfers	Robert Aldridge
S 1301	Community property	Robert Aldridge
S 1360	Admin proced act/admin rule amends	Sen. Rice
SCR 151	Admin hearing officer interim comm	Sen. Burgoyne, Rep. Luker
HR 2	House rule 64, public records request	Rep. Crane

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek
Vice Chairman Dayley	Rep Trujillo
Rep Luker	Rep McDonald
Rep McMillan	Rep Cheatham
Rep Perry	Rep Kerby
Rep Sims	Rep Nate

Rep Scott
Rep Gannon
Rep McCrostie
Rep Nye
Rep Wintrow

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Monday, March 21, 2016

TIME: 1:30 PM or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: None.

Chairman Wills called the meeting to order at 4:01 PM.

HR 2: **Rep. Crane** presented **HR 2**. This legislation pertains to public information requests and allows members of the House of Representatives to give authority to the Legislative Services Office (LSO) to process a public information request on their behalf. The member is not giving up their right to respond to the request personally. The fiscal note is for the purpose of hiring a employee for the duration of the legislative session to handle the influx of requests.

MOTION: **Rep. Nye** made a motion to send **HR 2** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

S 1300aa: **Robert Aldridge**, TEPI presented **S 1300aa**. This bill concerns the effect of a decree of divorce on various documents, planning methods such as rights of survivorship, and beneficiary designations. Existing Idaho law has a very limited automatic effect of divorce on various matters that should be taken care of in the aftermath of a divorce proceeding. Divorce proceedings, used to be handled almost entirely by attorneys, are now very often handled by the parties themselves without any legal advice, using pre-made forms. Therefore, the checklist of matters to take care of after or during a divorce proceeding is often missed. This can result in assets passing at the death of one of the parties totally contrary to the actual wishes of the decedent. The parties are not aware of the need for the changes. This issue has been recognized nationally and the Uniform Probate Code, used in Idaho, has been updated to cover those situations, protecting persons who do "pro se" divorce on their own.

MOTION: **Rep. McCrostie** made a motion to send **S 1300aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. McCrostie** will sponsor the bill on the floor.

S 1301: **Robert Aldridge**, TEPI presented **S 1301**. This bill covers the effect of depositing community property into an account that may not have the names of both of the married individuals on the account. This can result in several issues. First, the Idaho Legislature created Community Property With Right of Survivorship for all assets, including not only real estate, but all other assets, including bank accounts and stock accounts. However, many financial institutions are not offering that option and instead allow only Joint Tenancy With Right of Survivorship. This can create tax and other problems. Second, married individuals may have accounts in only one name for convenience, without any actual intent to change the character of the property in that account from community to separate property. Either of these situations can create problems when one of the two individuals either dies

or becomes incapacitated or the parties get divorced. This is especially true in blended families where there are children from prior marriages.

This bill makes it clear that depositing community property in an account, however titled, does not in and of itself alter the community property character of the property or the community rights in the property. The parties can always, by separate documents, agree to a different result, for example agreeing sums in a bank account will be the separate property of the person whose name is on the account even if the funds were originally community. The second part of the bill protects third parties such as banks or stock companies by providing rights of survivorship between married individuals arising from the express terms of the account cannot be altered by the provisions of a will. Wills may not be probated for years after the death of the person and third parties need to be able to rely on the clear terms of the account without worrying about a future probate suddenly altering those terms.

MOTION: **Rep. Sims** made a motion to send **S 1301** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Mr. Aldridge** stated educational seminars will be set up to educate the public regarding what must be included in their wills, especially if they are not utilizing a lawyer to prepare their will. A banker, lawyer or accountant may be aware of these rules and could educate their clients. If a decision were made today in regard to community property, this is likely the conclusion the courts would make. This legislation specifically covers community property as it pertains to bank accounts.

VOTE ON MOTION: **Rep. McCrostie** requested a roll call vote on **S 1301**. **Motion carried by a vote of 15 AYE, 0 NAY, 2 EXCUSED.** **Reps. Perry and Malek were excused.** **Rep. Sims** will sponsor the bill on the floor.

SCR 151: **Rep. Luker** presented **SCR 151**. This Concurrent Resolution is the result of information found in a study prepared by the Office of Performance Evaluations titled "Risk of Bias in Administrative Hearings." Data from the study indicates 52% of the various types of contested cases present moderate to high risk of bias. One of the study's recommendations was the Legislature consider establishing an interim committee to study possible contested case changes. This Resolution states the Legislature finds the level of risk of bias unacceptable and authorizes the Legislative Council to appoint an interim committee to undertake and complete a study of potential approaches to mitigate this bias risk.

Sen. Burgoyne testified in support of **SCR 151**. It is important to note, this study was released by the Office of Performance Evaluations on February 22, 2016 and the Office recommended the interim committee.

MOTION: **Rep. Dayley** made a motion to send **SCR 151** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** will sponsor the bill on the floor.

S 1360: **Sen. Rice** presented **S 1360**. This legislation amends the requirements on information given to the Legislature for rules review to require a brief written summary of substantive changes previously incorporated by reference of revised substantive differences. Often the changes are presented as a simple update from one manual to another and the substantive changes are not explained.

MOTION: **Rep. Trujillo** made a motion to send **S 1360** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the March 15, 2016, meeting. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:41 PM.

Representative Wills
Chair

Katie Butcher
Secretary

AMENDED AGENDA #2
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE
1:30 PM or Upon Adjournment
Room EW42
Wednesday, March 23, 2016

SUBJECT	DESCRIPTION	PRESENTER
S 1420	District judges, salaries	Sen. Davis
S 1253	Child protection, caregivers	Miren Unsworth, IDHW

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Wills	Rep Malek	Rep Scott
Vice Chairman Dayley	Rep Trujillo	Rep Gannon
Rep Luker	Rep McDonald	Rep McCrostie
Rep McMillan	Rep Cheatham	Rep Nye
Rep Perry	Rep Kerby	Rep Wintrow
Rep Sims	Rep Nate	

COMMITTEE SECRETARY

Katie Butcher
Room: EW56
Phone: 332-1127
email: hjud@house.idaho.gov

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, March 23, 2016

TIME: 1:30 PM or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Malek, Scott

GUESTS: Miren Unsworth, IDHW; Russ Barron, IDHW.

Chairman Wills called the meeting to order at 3:53 PM.

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the March 17, 2016 meeting. **Motion carried by voice vote.**

MOTION: **Rep. Wintrow** made a motion to approve the minutes of the March 21, 2016 meeting. **Motion carried by voice vote.**

S 1253: **Miren Unsworth**, Deputy Administrator, Department of Health and Welfare, presented **S 1253**. Too often children and youth in the foster care system miss out on opportunities to be involved in extracurricular, enrichment, cultural or social activities because the current process for approving these activities can be time consuming and burdensome for the children and foster families tasked with caring for them. There is also a need to ensure appropriate immunity from liability for the foster parents who make day-to-day decisions regarding children placed in their care. Presently, there is no provision for immunity from liability in law for foster families.

The Preventing Sex Trafficking and Strengthening Families Act requires each state's child welfare program to establish "appropriate liability" standards for foster parents who wish to normalize foster children's lives by enrolling them in activities. Idaho currently has no state statutes outlining liability coverage for foster parents and child care institutions under contract with the Department of Health and Welfare whose services are paid for via title IV-B and IV-E funds of the Social Security Act. This legislation is meant to delegate limited authority to foster parents to provide enrollment consent for foster child activities which schools and other organizations may require, and for which foster parents may be reluctant to give without liability protection. This legislation does not change the status or rights of a biological parent or guardian, or the Idaho Department of Health and Welfare in its role as the legal custodian or guardian of a child. There is no anticipated fiscal impact associated with implementing this legislation.

In response to a question from the committee, **Ms. Unsworth** explained activities covered under this legislation could include signing a permission slip for a field trip, participation in sports, or attending a week long summer camp. Presently, foster parents do not make these decisions and must go through a case worker for permission to do so.

In response to a question from the committee, **Ms. Unsworth** stated nothing in this bill would conflict with **H 556**.

In response to a question from the committee, **Ms. Unsworth** explained there is the potential for a suit against a foster parent for consenting to the activity.

MOTION: **Rep. Trujillo** made a motion to send **S 1253** to the floor with a **DO PASS** recommendation.

In response to a question from the committee, **Ms. Unsworth** explained if a child was injured and a suit was filed, the Department of Health and Welfare has immunity but the foster parents are vulnerable. Their immunity is only in the application of the standard. If a decision is made outside of the standard, the foster parent would not have immunity from liability. Training will be provided for the foster families regarding which decisions are within the standard and which are not.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Perry** will sponsor the bill on the floor.

S 1420: **Sen. Davis** presented **S 1420**. This bill adjusts the annual salaries of magistrate judges and district judges beginning in FY 2017. Salaries for Supreme Court justices and Court of Appeals judges, including the Chief Justice of the Supreme Court and the Chief Justice of the Court of Appeals, are not affected. Every four years the Idaho Legislature sets the compensation for constitutional officers. The pool of applicants for the district judge positions is very small. The delta was increased between the magistrate judges and the district judges in an attempt to increase the pool of applicants for the district judge positions. Judges are not being paid comparatively to others in the region. The delta should be maintained between magistrate and district judges. In 2015, regardless of what state employees received, there was zero percent CEC for the courts. With this legislation the Supreme Court justices and Court of Appeals judges, including the Chief Justice of the Supreme Court and the Chief Justice of the Court of Appeals receive a zero percent CEC.

MOTION: **Rep. McDonald** made a motion to send **S 1420** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Moyle** will sponsor the bill on the floor

Rep. Gannon explained the Joint Publishing Committee recommendation is for the Idaho Legislature to pay for the current 100 requests for hardbound Session Law books. Current personal orders will be forwarded to Caxton for payment and processing. Each book will have a letter enclosed stating this will be the last year the Legislature will pay for the hardbound version and future year's hardbound orders will be taken and the payment processed by Caxton. The online Session Law Library will continue to have additional volumes added throughout the interim. The front page of the Session Laws will reflect the change in the publishing authority.

MOTION: **Rep. Gannon** made a motion to approve the recommendation of the Joint Publishing Committee.

Chairman Wills clarified this will remove the requirement for a concurrent resolution each year.

VOTE ON MOTION: **Motion carried by voice vote.**

Chairman Wills thanked **Matthew Hacker** for his service as a page, and **Katie Butcher** for her service as the committee secretary.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned 4:29 PM.

Representative Wills
Chair

Katie Butcher
Secretary